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Revenue Committee  
February 18, 2010

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[LB1031 LB1032 LB1077 LB1107]

The Committee on Revenue met at 1:30 p.m. on Thursday, February 18, 2010, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB1077, LB1031, LB1032, and LB1107. Senators present: Abbie Cornett, Chairperson; Merton "Cap" Dierks, Vice Chairperson; Greg Adams; Galen Hadley; LeRoy Loudon; Pete Pirsch; Dennis Utter; and Tom White. Senators absent: None.

SENATOR CORNETT: Good afternoon and welcome to the Revenue Committee. I am Senator Abbie Cornett from Bellevue. To my left, Senator Cap Dierks from Ewing will be joining us. To his left is Senator Greg Adams from York; Senator Galen Hadley from Kearney. To my far right is Senator Pete Pirsch from Omaha. To his left is Senator Dennis Utter from Hastings; Senator LeRoy Loudon from Ellsworth; and Senator Tom White from Omaha. Our research analysts today are Bill Lock, who is seated to my far left, and Steve Moore, to my right. Erma James is the committee clerk. The pages for today's hearing are Abbie Greene and Ryan Langle. Before we begin the hearings today, I'd please ask everyone to turn their cell phones to either off or vibrate. Sign-in sheets for testifiers are available by the back door, by both back doors, and need to be completed prior to coming up to testify. If you're testifying on more than one bill, you must submit a form for each bill. Please print and complete the form and hand it to the committee clerk. There are also clipboards in the back of the room to sign in if you do not wish to testify but wish to indicate either your support or opposition to a bill. These sheets will be included in the official record. We will follow the agenda posted at the door. The introducer or the representative will present the bill, followed by the proponents, opponents, and neutral testifiers. Only the introducer will have the opportunity for closing remarks. As you begin your testimony, please state and spell your name for the record. If you have handouts, please bring ten copies for the committee clerk and staff or committee clerk and committee, and give the handouts to the pages. If you need to make copies, we can do that for you. With that, we will open the hearing on LB1077. Senator Karpisek, you are recognized to open.

SENATOR KARPISEK: Thank you, Senator Cornett and members of the Revenue Committee. I had a welcome off the mike, so I know what I'm up against. (Laugh) The purpose of this bill is to change the way that we value agriculture land in the state of Nebraska. I feel that my constituents do not want to continue to value ag land by examining sales of ag land. The problem that I have really seen in my district is, number one, ten...well, I shouldn't say number one. Number one is the recreational buyer comes down from Lincoln, from Omaha maybe, buys 80 acres to pheasant hunt on or buys a quarter section with a creek running through the middle of it for deer hunting, and they'll pay three times what it's worth maybe. They may pay close to \$10,000 an acre for that land to have something out there to be able to go hunting on. The problem is that affects all the other land around them because they look at sales of land around them. The farmer who has the land next-door may have had that land in their family for 100

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
February 18, 2010

---

years and probably has always cussed that creek that runs through that land because it's not farmable, it's hard to get around and it's just a problem, but that creek just raised his valuation considerably. That's the biggest problem that I see where I'm at. The other one is 1031 exchanges. People will buy...sell land somewhere around Lincoln or Omaha, a developing city. If they use that money to buy more land, they don't get hit with...oh, I can't think of the word now. Anyway, (laugh) you know what I mean, right, Senator Hadley? [LB1077]

SENATOR HADLEY: Yeah. [LB1077]

SENATOR KARPISEK: They won't have to pay so much taxes on it. So they come and they buy the land again at increased prices, which drives the value of the other landowners up, capital gains,... [LB1077]

SENATOR CORNETT: Capital gains. [LB1077]

SENATOR KARPISEK: ...finally. [LB1077]

SENATOR CORNETT: I wasn't going to... [LB1077]

SENATOR KARPISEK: Thank...well, you can any time, Senator. That again drives it up. There's also the issue of out west, and I don't know as well about it, but Ted Turner buying land. I don't know that anyone can compete against him. If he wants to buy land, he's going to buy land. Again, it drives everyone else's prices up. Kansas and Iowa have done this for quite some time. South Dakota has just this year implemented the income approach and I think South Dakota doing it has really caused a little spur on this, because I have brought something along these lines all of my four years that I've been here. Senator Coordsen worked on this, as Cap...Senator Dierks knows. I've just tried to pick up where he left off. I thought that he was on to something and I'd like to keep that going to see where it can go. Again, people...where people are using real estate sales to indicate the actual value for tax purposes, the idea here is to use income. Expenses and productivity information and a capitalization rate method is used in other states, again, that border Nebraska. I realize people will be concerned about a potential decline in valuation and a potential increase in state aid. Those arguments have been made on this bill each time I have introduced it. I've tried to address those concerns by requiring the first year of this new approach to keep the statewide valuation the same as the prior year. In the years after that, the Legislature could try to amend the capitalization rate to determine the change in value. I realize people will have concerns about the cost of implementing this bill and there will be some cost. Each other state that uses this type of formula hires university economists and experts to develop this formula information. I know times are tight and I believe we should spend the money to do it right and be ready to implement this way of valuing agriculture land in the future. Taxes on agricultural land are a larger burden on farmers in our state than in any of our

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
February 18, 2010

---

border states, and I would like to try to see if this policy can be changed. Anyone who lives near a border hears all the time, I've got 80 acres in Nebraska and 80 acres in Kansas and the value, the taxes in Kansas are half of what I pay here in Nebraska. I do realize there are other things that go into this. Kansas has some oil wells. Iowa has more people, gambling. South Dakota has tourism and gambling. Wyoming, I'm not sure if they do it this way, but Wyoming subsidizes property taxes considerably by coal. The bill would ask that we get the formula and implement it in two years. I would like to see what...get the actual formula and plug it in to some real numbers, what people are paying for anhydrous, what they're paying for fuel, what they're getting for corn. There would have to be an average. Again, we're not inventing the wheel here. It's out there. Of course, it would have to be a little different for Nebraska. I just feel that we are getting into some really high rates now for things that aren't fair to some landowners that we need to take a very good, hard look at, and I guess that is my biggest thing, is I'd really like to shine a light on it and see if it is beneficial or if it is not. The interim study was very helpful to look at it to see if should we proceed, and in my opinion the interim study did say, yes, I think there is something here. Again, states around us do it. That's what I'm after and I hope...I wish there wasn't a fiscal note and I understand the problems there. Hopefully, we can work with some of the groups that will be behind me and try to get this formula made out and put some real numbers in to see where it would come out. Again, for Senator Adams, I want to say my purpose for this is not to so much lower tax rates but to make them more even, more fair, and if we are going to adjust them, whether we need to adjust them up or, hopefully, down, we could use that capitalization rate and do it fairly easy across the board. With that I'll be happy to try to answer any questions. [LB1077]

SENATOR CORNETT: Senator Louden. [LB1077]

SENATOR LOUDEN: Yeah, thank you, Senator Cornett. Well, Senator Karpisek, I, too, have been working on this for a long time. I said the first time I ever went to a tax protest meeting I was 16 years old. I drove the car for a bunch of old guys that were...went to Rushville and protested their taxes because I think at that time they were raising the valuation to \$16.50 an acre and I think they were...at that time the actual cash value of the taxable value was 35 percent, and it's never changed as far as protests. What I'm wondering as I do this, and you talked about Senator Coordsen and I was in this room when he introduced LB600 back there in I don't know what year it was, 2000...well, must have been about 1994 or '95, '96, somewhere along in there, '95 maybe. Anyway, he had a good start at that but the time it went all over the state, why, it ended up some of the irrigators out in the western end of the state would have been paying an exorbitant price. As we've looked at this, and I all summer on our hearings I've pointed out that unless you find another way to fund schools, what we do with the valuation of land is idle conversation because that's what is most of our tax money goes, is funding schools. And at the present time, nobody has come up with a better idea. Do you have any opinion on how another way could be used to fund the school system? [LB1077]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
February 18, 2010

---

SENATOR KARPISEK: Well, Senator Louden, I think, again, I don't really want to change the rates by this bill, just how we determine what the rates are. Now this bill also has one capitalization rate, as Senator Coordsen's did. I could see that there would be maybe three different capitalization rates used across the state, maybe more. Where those lines would be drawn, I don't know. That would have to go through the university. But to try to keep those values close to where they are now, but where a landowner that has had his land for quite a few years and the farm next-door sells for a very high amount, doesn't change his rate because of that. [LB1077]

SENATOR LOUDEN: You would like to go to something in California where whatever you paid for it is what you pay on it for the rest of your life? [LB1077]

SENATOR KARPISEK: Well, I don't think we could do that. It would just go off income, the income of the land. It would include the price of the grain, your expenses, and your income. [LB1077]

SENATOR LOUDEN: Now if you have a school system there and it's got to be paid for, in other words, even by doing this, you wouldn't save anybody any tax money. They still will have to pay about the same dollars out of their income as what they are now. [LB1077]

SENATOR KARPISEK: Correct, in the beginning. In the beginning of my idea, it would be about the same. However, if you just bought your land for a lot more money, you would probably get...well, not under this. It would be...it would be income-based. So if you can bring in 100 bushel an acre and I can only bring in 50 because of the lay of the land, that would be how you would pay. Now there would have to be something put in, too, for recreational use because somebody could just leave the land lay idle. Rec use would have to go into it too. [LB1077]

SENATOR LOUDEN: Well, now, yeah, now that's why our soil survey was done, was to make it equalized amongst the type of land, because somebody can farm this kind of land and get a lot more out of it than somebody else, depending on the amount of input on it. And I guess...I don't know how long you've been mixed up in this, but school consolidation is what drove this whole thing. I mean this is the reason our property tax came up and was supporting the schools, is because those people in the towns wanted that rural land on their property tax...or on their valuations. I don't know if you can remember when we had free high school tuition in the state of Nebraska, but you had your rural areas had your high school districts out there that paid tuition in to the town districts, and we paid, I remember Hay Springs, their tuition that year was \$10,000 per kid. That's what this high school district out there in the rural areas paid in that \$10,000. Of course, we had a lower levy because, as we were losing population, we didn't have the kids. You could pay \$40,000 to put that kid through high school. Once he was

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
February 18, 2010

---

through high school, he was off your tax rolls from then on. And of course, they always thought we had too low of a mill levy out there. So consolidation wasn't about better schools. It was about getting the rural land into the valuation of the city districts, and we've accomplished that and now we're breaking the farmers and the rural people in the process. And until we find a different way of funding those schools out there, whether you're going to have more state aid or we could perhaps just put agricultural land valued at 35 percent of actual cash value for tax purposes. That's been done before. I mean this 70 percent, now that's been all over the board, even when I've been mixed up in this over the years. Do you think that would do any good? [LB1077]

SENATOR KARPISEK: Well, it may, but then the state aid is going to have to be adjusted and then the state will have to find the money. [LB1077]

SENATOR LOUDEN: Well, but we're saving property tax, see? [LB1077]

SENATOR KARPISEK: We are, a tax shift. [LB1077]

SENATOR LOUDEN: And I mean this...if this is a problem, we're breaking the rural economy, which to me we are, we're breaking the rural economy with our property tax now funding schools. State aid, and it's in the constitution, state of Nebraska is supposed to furnish education to everyone from, what, 5 to 18 years old. And right now there's a lot of districts that the state of Nebraska isn't furnishing that because they're not getting any state aid or anything. They're furnishing that themselves. So I'm anxious to see if we get some high-dollar lawyer someplace will take that along, but... [LB1077]

SENATOR KARPISEK: Yes, I've got about half of my school districts are unequalized, and so that really plays in to them too. They're paying a lot in and getting nothing back from the state. But that's another argument for another day, I guess. [LB1077]

SENATOR LOUDEN: Well, thanks for bringing it forward. I know it's a tough nut to crack because, like I said, I've been at it for over 50 years now and we haven't come up with a solution yet. [LB1077]

SENATOR KARPISEK: Well, I won't have that long to work on it (laugh), but I'll hang with you. Maybe we'll get something. [LB1077]

SENATOR LOUDEN: Thank you. [LB1077]

SENATOR CORNETT: Senator Utter, then Senator Hadley. [LB1077]

SENATOR UTTER: Thank you, Senator Cornett. Senator Karpisek, thank you for bringing this, this bill. This is obviously an important issue, I don't think there's any question about that, and I think we've learned how important it was as we went from

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
February 18, 2010

---

Bloomfield to Scottsbluff this summer in the Revenue Committee and talked to people about taxes, and certainly the property tax issue was foremost in a lot of their minds and I think it opened a lot of eyes when we...particularly out in the ranch country. Folks were telling us that they were paying \$70 to \$90 per calf in taxes and, in a lot of cases, that was the biggest single item of their expenses. So obviously this is something that we need to work on. My question, I guess, centers around the...have you done any investigation as to whether there may be other sources of money available to implement whatever it is you're trying to do here other than General Funds? Given our fiscal situation right at the moment, we have to find this money. [LB1077]

SENATOR KARPISEK: So you're saying the money in the fiscal note to do the study, is that what you're talking about, Senator? [LB1077]

SENATOR UTTER: That's what I'm talking about. [LB1077]

SENATOR KARPISEK: I have talked to some of the farm groups that will be behind me and they have said that they would be willing to talk about putting some money forward. Now almost a quarter of a million dollars probably isn't doable. Again, I would just like to get a formula devised by someone, and I would say the university would be the best place to go to get that formula, and run some real-life numbers through this formula and find out where we're at. This might not be what is good for Nebraska and I don't want to push it. [LB1077]

SENATOR UTTER: Well, property taxes are obviously an issue that has to be... [LB1077]

SENATOR KARPISEK: They absolutely are and... [LB1077]

SENATOR UTTER: ...that need to be...a good close look needs to be taken, no question. [LB1077]

SENATOR KARPISEK: You are right, and this may not be the way to go, and I'll admit... [LB1077]

SENATOR UTTER: Well,... [LB1077]

SENATOR KARPISEK: ...it may not be, but I... [LB1077]

SENATOR UTTER: ...I can see how it affects all kinds of things. It's not just a matter of figuring out how to do it, but it's going to affect Senator Adams' calculations with regard to state aid to education and it's going to certainly affect the operation of counties in terms of their taxation and the levy limits and all of these type of things I think all have to be folded into this process. But I think it's a process that needs to be started. We just

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
February 18, 2010

---

need to find the money that it's going to take to do that, and I didn't know whether you've been investigating. Every once in awhile we find out there's a cash fund or something hiding somewhere behind a bush that we could... [LB1077]

SENATOR KARPISEK: Senator Louden and I have been finding money for the Whiteclay issue. We haven't gotten too much farther than that, I don't think. You are right though, Senator, and the way I see this whole process would be, it would be an average of five years, seven years, so it wouldn't be so up and down and it would have to work with city...well, not cities so much, counties and school districts to know what they're doing. And I, absolutely, that is the last thing I want to do is hurt the schools or the counties because then they have to raise property taxes or something. They won't be able to raise them if we do this. So... [LB1077]

SENATOR UTTER: Thank you. [LB1077]

SENATOR KARPISEK: ...thank you. [LB1077]

SENATOR CORNETT: Senator Hadley. [LB1077]

SENATOR HADLEY: Senator Cornett. Thank you, Senator Karpisek. I think this is a great start to look at this. I guess some of the concerns I have, you know, for years in the private sector, businesses and such as that, accountants have always been kind of criticized because we don't use current values on balance sheets, that if you look at Microsoft's balance sheets, their buildings and everything like that are carried at their original cost. And we talk a lot in accounting that the value of an asset is exactly what you're doing. It's the present value of the future flows, the future income off that asset. The problem has always been that you have to estimate a capitalization rate, the interest rate, you have to, the time, how long you're going to have the flows, and you got to figure out what the flows are. And those are open to a lot of speculation and such as that. So at least from an accounting standpoint, we have defaulted to the marketplace being the surrogate for this and it's an arm's length transaction, that if my neighbor sells their property to somebody, it's two people that are hopefully entering into an arm's length, no one is forcing one to sell, no one is forcing one to buy, and so the value becomes that. So I think it's a great way to go but I worry that some...that this can get pretty arbitrary when you start figuring interest, time, and payments to do it. Any...? [LB1077]

SENATOR KARPISEK: Well, again, we're not reinventing the wheel here. It is used in other states and, again, ours would have to be different than the other states. [LB1077]

SENATOR HADLEY: Yeah, I would be very interested in seeing what the other states, you know, how they're doing it, how they're...what their success is. And the other thing I think, if I understood Senator Louden's concerns, is that we have the valuation and the

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
February 18, 2010

---

mill levy and the money we need. So if you have two of them are known, then you force the third one. So if we play with the valuation and we know the money that we need for schools, then the mill levy becomes the floating issue. [LB1077]

SENATOR KARPISEK: I would say in this...in this the capitalization rate would be your floating issue. [LB1077]

SENATOR HADLEY: And very much so. Okay, thank you, Senator Karpisek. [LB1077]

SENATOR KARPISEK: Thank you. [LB1077]

SENATOR CORNETT: Senator Dierks. [LB1077]

SENATOR DIERKS: Thank you, Senator Cornett. Senator Karpisek, have you looked into how many states do this way of financing their property tax? [LB1077]

SENATOR KARPISEK: You know, we did, and through the interim study we had that. I know that...I know Kansas, Iowa, and now South Dakota has just implemented it. I don't have in front of me which other ones, but there are a few. [LB1077]

SENATOR DIERKS: One of the things becomes overwhelming, I think, is the fact that the needs for the property tax continue to escalate. They don't go back. They always go...they always get to be more. And so there's...it looks like there's little room for relaxing the amount of dollars we have to get from property taxes. But I guess the thing we have to figure out is what's the fair way to do this. Should property taxes pay for transportation costs for schools? Should it pay for new roads in the district? Probably. Courthouse needs? Probably. But when you have a situation where budgets are figured based on salary schedules and those sorts of things, and you're at the bottom end of the totem pole as far as where the money is coming from, it looks...it kind of looks like it's pretty overwhelming. And I just wondered how, for instance, Kansas looks at the needs problem. Do they...they certainly have the same kind of needs we have as far as getting their education for the children and for getting the county officials to work and that can't vary that much from the way it is in Nebraska or any place else in the Great Plains, for that matter. [LB1077]

SENATOR KARPISEK: You wouldn't think so, Senator. And again, they do have some oil wells that help subsidize some of this money that...where they can lower their capitalization rate and plug that in, similar to a bill maybe that you have coming on the pipelines. You know, I would hope...my thought is hopefully some day we can get wind power going and get a little bit of revenue off that and it could help in this situation. [LB1077]

SENATOR DIERKS: Well, we've helped, I think, a little bit as far as some of the things

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
February 18, 2010

---

that have happened, like with ethanol production, for instance, and we've helped with some of the wind power. It's provided for some jobs for people in the rural area. But by the time you factor in those increases, why, the needs have increased more than the way to get them. So I was on that bill with Senator Coordsen and I was sitting here trying to figure out...Senator Louden was trying to figure out what day that was and what year that was, and before we're done this afternoon I'll get that figured out for you. But we even had a model put together by the Revenue Committee that we took out to the country and tried to sell it to people and it wasn't easy to sell. It was difficult to sell. And they did a downlink at the Northeast Tech in Norfolk for farmers and ranchers to come there and watch what this model did, and they were not happy. So I know that there's lots of things that go into the formula but I know you're on the right track and I applaud you for that. I'll be there to help you if I can. [LB1077]

SENATOR KARPISEK: Well, thank you, Senator. I have gotten some push back on this, and again, as I said, I don't know that this is the way that we want to go, I don't, but without sitting down and taking a good look at it and getting some numbers, how do we know? And I don't think that there's anyone out there that can say that property taxes aren't a problem, but then...well, but we don't like this. Well, okay, that's fine, so...but let's try to do something. Doing nothing doesn't help, so. [LB1077]

SENATOR DIERKS: Thank you. [LB1077]

SENATOR CORNETT: Senator Karpisek, you and I have had many conversations regarding ag land valuation and your idea. How does this bill differ from the bill that Nebraska enacted that was found unconstitutional? [LB1077]

SENATOR KARPISEK: Oh boy, I can't...I can't recall it right off, Senator. I'm sorry. [LB1077]

SENATOR CORNETT: Okay. The problem that I have seen, and I was talking to Steve over it and I think you and I had discussed it before, is Nebraska has a uniformity clause and I'm not sure that you wouldn't need a constitutional amendment on the way the bill is drafted, to address that issue. But I'd be happy to work with you because I do, you know, we have worked with this over the course... [LB1077]

SENATOR KARPISEK: Uh-huh. [LB1077]

SENATOR CORNETT: ...of the last year and do recognize there is a significant problem. [LB1077]

SENATOR KARPISEK: And that may be true. I thought maybe having the one capitalization rate may take that... [LB1077]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
February 18, 2010

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SENATOR CORNETT: May take it out? [LB1077]

SENATOR KARPISEK: May, but maybe not, and I would be...I'm coming here to try to just get some help from the committee and you have been very good on that and, again, it's not an overnight fix. We don't want to jump in anything too soon, but I think we need some good data and not just to say, yeah, boy, that's tough. [LB1077]

SENATOR CORNETT: Oh, and it is a very difficult issue and it's one that we, as a committee, and as the Revenue, yeah, the Revenue staff has looked at extensively and am more than willing to work with you. [LB1077]

SENATOR KARPISEK: And I appreciate all the help I've gotten so far. [LB1077]

SENATOR CORNETT: Further questions from the committee? Senator White. [LB1077]

SENATOR WHITE: Senator Karpisek, thank you for doing this. This is, from my point of view, maybe the critical issue for almost all of the rural areas of the state, and I've worried a lot about it. Here's the crisis, and I've tried to articulate this to the other senators, Senator Dierks. As long as people are willing to bid more for land than a hardworking person working that land can earn off of it and pay off the mortgage, to me the real underlying problem is not going to go away, and that is people who want to live there, make a family there and a life there aren't going to be able to afford the land. Now our taxes aren't helping. You know, they're not. But what I'd really like to see, and I hope you'd think this through and talk to a lot of your constituents and see if maybe it starts making some sense, I'd like to see aggressive tax help for people who actually live on and work the land. But if a guy like me, who's a lawyer in Omaha, decides he needs a place to go hunt pheasants or ride his horse, I really don't have an interest in subsidizing a person like me buying that land or somebody from Florida who just decides they need a ranch or 10,000 acres of irrigated farmland that they just have somebody else farm. Is that something you'd be willing to work with, with the ag community, with the citizens? Because what I want are Nebraskans to own Nebraska land and live in our towns and go to our schools and then pass them on to kids who want to farm or ranch. [LB1077]

SENATOR KARPISEK: Absolutely, Senator, and you are right. Again, that's part of...such a big part of this is that people do come from somewhere else and buy the land up for an exorbitant price and then everyone around them has their valuation jump, their taxes jump. It's a vicious cycle. [LB1077]

SENATOR WHITE: And the kids...at least, I don't know if it is anymore, but when I was a young man a lot of the kids in my high school class wanted to stay on the farm but there was no way that economically they could make it because they had other siblings on the farm or there were other issues. I'd like to see us not look at this as a tax problem

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
February 18, 2010

---

but a problem of how we keep people, who actually live and work on the land, owning the land instead of just tenant farmers, because that's where we're heading. [LB1077]

SENATOR KARPISEK: I think it's both of them working together. I agree, Senator. [LB1077]

SENATOR WHITE: Thanks, Senator. [LB1077]

SENATOR KARPISEK: Thank you. [LB1077]

SENATOR CORNETT: Senator Karpisek, two of the different areas that we have looked at over the interim and we've heard testimony on are looking at valuation based on soil type and/or valuation based on the difference between recreational use versus production. Thoughts? [LB1077]

SENATOR KARPISEK: I think that all of them need to play in. There has to be something for the recreational use, something for the absent landowner. The soil, I think, is very important because, just because I'm a poor farmer, if we go to income-based, doesn't mean that I should pay less taxes on that ground than my neighbor who has the same ground but is a good farmer. So that, I think, is very critical in this whole equation, which I'm sure there would be a lot of argument on whose land is better. This time mine would be worse. Usually mine is better. I think everything that we've looked at needs to go into this formula and, again, real numbers run through it, not just playing around if corn is five bucks and anhydrous is whatever it is. So I think it all needs to play in, the 1031 exchanges, the rec, and the income approach. All of it needs to be in there, different categories but all in one. [LB1077]

SENATOR CORNETT: Further questions from the committee? Seeing none, thank you. [LB1077]

SENATOR KARPISEK: Thank you. [LB1077]

SENATOR CORNETT: First proponent. May I see a show of hands for the number of proponents, please? [LB1077]

NATHAN BARTELS: (Exhibit 1) Senator Cornett and members of the Revenue Committee, my name is Nathan Bartels, N-a-t-h-a-n B-a-r-t-e-l-s, and I'm a member of the Johnson County Farm Bureau. I also serve on the Nebraska Farm Bureau Federation board of directors. I appear before you today on behalf of the members of Nebraska Farm Bureau. In representing many landowners in the state of Nebraska, Nebraska Farm Bureau Federation has a strong interest in this topic, and we certainly appreciate Senator Karpisek looking at this issue. Nebraska Farm Bureau's policy supports an income capitalization approach as the most equitable means of valuing

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
February 18, 2010

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agricultural land for tax purposes. Farmers and ranchers continue to be concerned with the influences of nonagricultural factors in the market. Section 1031 tax exchanges, nonagricultural investors, and persons purchasing property for recreational purposes continue to be influences in the market. The June 2009 UNL report of the Nebraska farm real estate market reported that respondents believe crop prices were having the most positive impact on land prices. Following the crop prices, however, nonfarmer investor interest and 1031 tax exchanges were rated fourth and fifth highest in their positive influence on land prices. The same report in 2006 reported that respondents believed 1031 tax exchanges and nonfarmer investors were the two strongest factors contributing to the higher land values. Interestingly, and while it varies across the state, the 2009 report showed that 25 percent of the buyers in the northwest crop reporting district were either local nonfarmers, nonlocal Nebraska residents, or out-of-state buyers. And in the north, 40 percent of the buyers fell into the same three categories. Given our present system of basing agricultural land values on market prices, it is difficult to sort out nonagriculture influences in the market. Thus, these influences get captured in the assessed values and property taxes paid. Generally, only 3 percent or less of the agricultural property in the state will transfer ownership in any given year. Thus, the market may be too thin to provide a reasonable test of market value--too few sales to assign value to the entire universe of agricultural land. Most farmers and ranchers believe that valuing agricultural land based on income capability would remove the nonagricultural influences in the valuation of agricultural land. They look at other states with significant agricultural sectors that value land based on income and question why such an approach cannot be used in Nebraska. Colorado, Kansas, Missouri, Wyoming, and South Dakota value ag land based on income capitalization. They then assess the land for tax purposes at considerably less than Nebraska. For these reasons, Farm Bureau supports LB1077 and would be happy to work with the committee as they continue to look at this important issue. Thank you for the opportunity to provide comments. I would be happy to answer any questions you might have. And I also have a letter here from the Nebraska Soybean Association that I would like to submit for the record. Thank you. I think it's already been picked up. [LB1077]

SENATOR CORNETT: Senator White. [LB1077]

SENATOR WHITE: Thank you for coming. I appreciate your testimony. Let me try to describe the problem, see if we can find areas of promising inquiry, because we're not going to solve anything today. Does the Farm Bureau share my concern and the concern of many others that the people who actually work the land increasingly can't afford to own it? [LB1077]

NATHAN BARTELS: That's kind of a generalization and it would be difficult for me to answer that question. [LB1077]

SENATOR WHITE: Okay. [LB1077]

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Transcriber's Office

Revenue Committee  
February 18, 2010

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NATHAN BARTELS: I come representing Farm Bureau. [LB1077]

SENATOR WHITE: Yeah. Well, let me ask this. I mean you understand the state constitution requires all land to be equally valued, right, of class. So we have, in the past, run into that when we've tried to engage in different kinds of valuing strategies. How would the Farm Bureau feel about a scheme in which a farmer or a rancher got...if he lived on and worked the land, would be eligible for an income tax credit, including refundable if under the right circumstances, for the property tax he or she paid? So what would happen is if you actually lived on the land and you were actually working to own it, you could get even a refund, even if you didn't make income in a bad year, for the property or part of the property tax that you paid. That way we reward people who actually want to live here; we don't reward people who just want to buy the land and live, you know, in Florida. [LB1077]

NATHAN BARTELS: I'd have to check with our policy book on that... [LB1077]

SENATOR WHITE: Okay. [LB1077]

NATHAN BARTELS: ...to make sure, that that's how we develop our policies and we have to check, and we could get back to you on that, we certainly would. [LB1077]

SENATOR WHITE: And really, this is an invitation to start thinking about things like that... [LB1077]

NATHAN BARTELS: Uh-huh. [LB1077]

SENATOR WHITE: ...and perhaps if you'd work with Senator Karpisek. [LB1077]

NATHAN BARTELS: Uh-huh. [LB1077]

SENATOR WHITE: And I only speak for myself, but I really want to solve this problem. And the average age of a farmer is now, what, 57, older in Nebraska maybe, and you can't pass the farms on to the kids, they can't make a living. And we've got people who are lawyers and doctors and form corporations outbidding people who would love to stay in their communities and work the land, and I'm looking for an answer to that because what...to make it economically viable for them. [LB1077]

NATHAN BARTELS: We'll make sure we get back to you on that. [LB1077]

SENATOR WHITE: I really appreciate the courtesy, sir. [LB1077]

SENATOR CORNETT: Further questions from the committee? Senator Louden.

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
February 18, 2010

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[LB1077]

SENATOR LOUDEN: Yes, thank you, Senator Cornett. Does Farm Bureau...have they entertained any ideas about having a different valuation for school purposes than for county purposes, something like that? In other words, for school purposes it would be a different...35 percent of actual cash value or something like that for school purposes? [LB1077]

NATHAN BARTELS: You mean part of the levy or the valuation? [LB1077]

SENATOR LOUDEN: Of the valuation of even whether it's ag land or residential or your commercial. [LB1077]

NATHAN BARTELS: So let me...so like ag land would be 35 percent, whereas the rest would 100 percent, whereas agriculture enjoys 75 percent right now. [LB1077]

SENATOR LOUDEN: Yeah. Okay, yeah. [LB1077]

NATHAN BARTELS: That would be another good idea. [LB1077]

SENATOR LOUDEN: Okay. Now, by the same way, you could do that by lowering this cap levy where you're entitled to state aid to education down to about 50 cents or someplace like that. I mean the state aid would go out of the roof but who the hell cares if your property tax is breaking you? Have they considered something like that also? [LB1077]

NATHAN BARTELS: We'll write that down, too, and consider it for, you know, in the fall is when Nebraska Farm Bureau makes policy and we'll sure consider those ideas. [LB1077]

SENATOR LOUDEN: Okay. Thank you. [LB1077]

SENATOR CORNETT: Further questions from the committee? Seeing none, thank you. [LB1077]

NATHAN BARTELS: Thank you. [LB1077]

SENATOR CORNETT: Next proponent. [LB1077]

JOHN K. HANSEN: Chairman Cornett, members of the committee, for the record, my name is John K. Hansen, J-o-h-n, Hansen, H-a-n-s-e-n. I am the president of Nebraska Farmers Union and appear before you today as my organization's president but also our lobbyist. As I remember it, Senator Dierks, I was the second one to testify on LB600 and

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
February 18, 2010

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I was right behind Bruce Johnson, who came in with a completely different set of numbers than we had heard the week before, and so it made for a very difficult hearing for those of us who were in the proponent position. So this issue, going back, as we look at how we got to where we're at, we used to do earnings capacity as a basis for determining ag land and that was...you had the Legislature that looked at kind of the earning capacity of agriculture and how they were doing economically, and so rates for agriculture were kind of set based on what they thought ag could afford to pay. And then shortly after I walked in the door, things started going south quickly, which was 1990. There was the MAPCO decision and then all the cards were in the air in a bad wind. And so then how do we get out of a formula that makes any...that meets both at the same time the requirements of uniformity based on the ruling and still makes any economic or fiscal sense based on agriculture's ability to be able to pay? And so we have...we're kind of...as you look at public policy, we've kind of been like a hog that has been loaded backwards up the chute with a five-gallon bucket over its head. We've been backed into the position that we're in. It was not necessarily a proactive thing where we thought, oh gee, what would be the correct public policy, let's do that because that seems more fair. So we've struggled with this issue. And to Senator White's comment earlier, I was the cochair. I was the...I believe I was either the secretary or the treasurer of a statewide ag coalition that ran a constitutional amendment. Larry Hudkins, I believe, was the president of the Cattlemen at the time, Bryce Neidig was the president of Farm Bureau, and myself as president of Farmers Union, we were the three main officers of that statewide initiative. It was put on the ballot. It was supported. It was a constitutional amendment that had earnings capacity and the Supreme Court threw it out. And we're still trying to figure out just exactly how it is that the Supreme Court throws out a constitutional amendment that was put into the constitution by the citizens. And so then we were back again in this mess of how do we try to get to where we're at, and so we started out with marketplace as the guide, because there was nothing really else for us to do. So then we have looked at lowering the percent of...for ag of the sales price as the driver, and so we're now at where...we've now gotten to where we've been headed, so we're at the current level. And so we continue to struggle with that. And the...some of the...some of the issues and some of the studies that I've been involved in down through the last 20 years, as you look at all of the mainline tax studies that have been done and all of those things, part of what really gears the perception of whether or not your taxes are too high or not is whether or not you think it's fair and how you got there. And part of the rub from ag is that ag looks at sales value as just not an accurate way to determine the earning capacity of the land, and so we're seeing substantial changes in farm program structures. The last farm bill, for example, we had a 40 percent reduction in the baseline for the last farm bill at a period of time when the cost of doing business doubled in two years. So the income safety net wasn't near as much, so you see huge marketplace volatility in both the input side as well as the value of things. A year ago in first quarter, I think we lost more money feeding cattle in any quarter in the history of cattle feeding. And so we've got dairy producers going broke and hog producers going broke and cattle producers struggling and feedlot guys losing

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
February 18, 2010

---

money, and the value of their assets that they pay taxes on are the same or go up. And it's based on 1031 sales, which are hot sales. You've got a limited amount of time, you got to find some replacement value or you're going to pay capital gains on it so, you know, this is hot money. They're going to find something somewhere that they can offset that with. So if they have to pay more than the market, they're willing to pay more than the going market rate on a 1031 exchange sale because they're looking at that relative to the cost of paying the capital gains on what they unloaded. So they're going to...they are hot buyers. They're going to be willing to bid more than the market. And in the case of real estate that is owned for residential or real estate that is owned for business, in the case of business you kind of look at what it is that you can afford based on your business and what you can afford to pay for certain kinds of real estate, and in the case of residential, you know, if you got enough income to be able to support a \$500,000 house with the taxes that go with it and the upkeep and everything else and the insurance and all of that, you kind of buy a \$500,000 house. And if you don't have the income for it, you buy a \$400,000 house or you adjust your...what it is that you buy based on your income. In the case of ag, you're seeing that your valuations continue to go up regardless of whether you're making any money or not, and that is the perception that is so deeply felt by the ag community that says, well, this isn't fair. So as we look at other states and what it is that they have done, they have moved toward some kind of earning capacity formula, which we don't assume ever solves our tax issues overall but it certainly is a starting place as far as helping deal with the perception of fairness. And so, of course, as we equalize valuations, I will just tell you in advance that I am able to accurately predict how this is going to proceed and that is, as you equalize valuations within the ag community, if the value of your property goes down for purposes of taxation it is a good thing, and if your property goes up it will be a bad thing. (Laugh) And so that was the response that Senator Dierks was talking about earlier as this committee, in its previous iterations, took that formula around the state, is that you could tell which part of the state you were in. And, Senator Loudon, in your end of the state the grazing land folks thought it was a pretty darn good deal, and the guys that were sitting on irrigated farm ground out in your end of the state thought it was a rotten deal. And so these are...you know, this is not going to be simple or straightforward should you go down this path, but I thank Senator Karpisek for keeping the concept alive and it's an idea that I think is still worth talking about and how we get at the legal issues and, you know, I don't know whether the makeup of the State Supreme Court today would give us exactly the same decision that they gave us in the previous ruling. And so with that, I'd be glad to close my testimony and answer any questions if I could. [LB1077]

SENATOR CORNETT: You brought up two points that have been something that we've discussed and I've discussed with my staff over and over again. One is the difference between recreational use and production. [LB1077]

JOHN K. HANSEN: Yes. Yeah. [LB1077]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
February 18, 2010

---

SENATOR CORNETT: There are states, matter of fact probably as many states that have went from an income-based...to income-based that have also went to production versus recreational use. Do you have a preference? And the second half of the question is, in moving around the state and having talked to different people, the point that you just brought up is very relevant. What the cattle producers need isn't exactly what the irrigators need in the way of property tax relief. Am I correct? [LB1077]

JOHN K. HANSEN: Well, as you look at equalization and you look at earning capacity, you kind of cast your lot based on the most recent years that you use in the base period for those purposes. And so, you know, you can certainly see valuations going up for one particular kind of use based on the earning capacity and the soils that go with it, and you could see it going down for others, and you know within ag, where you have huge volatility in markets, and so you can be going a particular direction three out of the last five years but the two years it's going the other direction, maybe that you're in right now, is very difficult. Because it's the lows and those kinds of bad years that put folks out of business. And so it's kind of the property tax gets viewed as, you know, whether you're making any money or not, you're paying it and your valuation, whether you're making any money or not, goes with it. Another issue, Senator, that I should have mentioned earlier is that you've not only got the outside buyers who...we have a lot of farm kids who went off to school and they got good educations and they're making very good incomes and some of them operate on my back and some of them provide me with legal services, and that almost all the folks that provide professional services for me, for example, are farm kids that I know, including my surgeon and all those folks. They go back out and they know ag land and they do that instead of going in the stock market. And it's very hard to compete against one of those folks who have money sitting in a kitty, when you're a farmer trying to buy land because at the end of the day they're going to get an 8 to 10 percent return on that capital investment, plus the value of the investment itself is going to go up over time. And so those are tough buyers to compete against when you're doing that. And then you've got those spot folks, you know, out in western Nebraska, Senator Louden, in your area, when I'm out in your end of the state I've got folks who are complaining about those crazy people from Colorado who are, you know, fleeing west and buying expensive ranches without hardly any cows and putting up, you know, fancy new houses. And so that helps drive...so you've got the recreational buyer... [LB1077]

SENATOR CORNETT: I was going to say and that was the point that I was trying to make. One of the most telling things that we heard when we were in the western part of the state one of the days of hearings is that the poorest graded soil had the highest tax rate, but it had the least production. It was for cattle production, the least cattle production possible. [LB1077]

JOHN K. HANSEN: Yeah. [LB1077]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
February 18, 2010

---

SENATOR CORNETT: I think it was 16 acres for a cow-calf and...but it was taxed at the highest rate because of the recreational buyer coming in and paying more for the land than it could produce. Any suggestions? And then we'll move on to Senator Hadley and Adams. [LB1077]

JOHN K. HANSEN: Well, I just think that you'd have to look at earnings capacity and you have to look at use, both, and so... [LB1077]

SENATOR CORNETT: So you'd look at it as a combination. [LB1077]

JOHN K. HANSEN: You almost have to have a combination because if they're sitting on...you know, for example, a lot of the stuff that goes on in a lot of the creek ground and stuff that's really rough and places where I used to run cows, west of Verdigre for example, I mean, you couldn't get a horse through there because it was just so blooming rough, and yet that was, you know, I mean you had to have a lot of acres of that kind of ground to support a cow but, boy, it was a great place for hunting. Well, folks come in and they'll pay really good money for what is, if you think about it, the worst pasture ground in the area and yet then that helps drive the price of the rest of the pasture ground in the area. [LB1077]

SENATOR CORNETT: And that's what I'm getting at. Shouldn't that person that is using it for something other than ag production be treated differently? [LB1077]

JOHN K. HANSEN: I think that has to be a part of the mix because of the use. [LB1077]

SENATOR CORNETT: Okay. Thank... [LB1077]

JOHN K. HANSEN: Yep, and it just wasn't much of an issue 20 years ago but now we're seeing a lot more of those kinds of buyers. Yes. [LB1077]

SENATOR CORNETT: Senator Hadley. [LB1077]

SENATOR HADLEY: Thank you, Senator Cornett. Mr. Hansen, do you feel the ag community, are they more concerned with the equity issue in valuation, that we have a fair valuation method, or are they more concerned that they're paying more than their fair share of taxes in the state of Nebraska? [LB1077]

JOHN K. HANSEN: Honestly, I'd say both. I mean one kind of feeds the other. But they feel like the tax load is just getting heavier and heavier. And I've been out in the country here lately and, you know, when the issue of beginning farmer, for example, has come up and they keep saying, you know, how does a beginning farmer...how do you overcome a tax load like that? If you want to do something to help ag, you know, and beginning farmers, the property taxes are just...I've been taking complaints on property

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
February 18, 2010

---

taxes for all 20 years I've been president of Farmers Union. I've not ever had a year where anybody thought their tax load was just about right. But the complaint these days, given the valuation level of ag land and given where we're at right now, we have really kind of overshot the mark in terms of most folks' perception of fairness. [LB1077]

SENATOR HADLEY: I guess I'd just...one quick follow up question: I get concerned when we start dealing with this that somehow there's a belief out there that if we get equity in valuation, the amount I'm going to pay is going to go down. Does that make sense, that... [LB1077]

JOHN K. HANSEN: Right. Yeah. [LB1077]

SENATOR HADLEY: ...if we have an equity in valuation, my valuation is going to go down, I'm going to pay less taxes? And unless...you know, we talk about the valuation, the mill levy and the amount we need... [LB1077]

JOHN K. HANSEN: Yep. [LB1077]

SENATOR HADLEY: ...and if we know two of the three, it forces the third one. If we lower valuation, we keep funding, primarily for schools, in property tax, even keeping it the same level, we've got to increase the mill levy then. Right? You know... [LB1077]

JOHN K. HANSEN: Yep. Yep. Yep. I'm a former local government official. I used to help set the levy rates. (Laugh) You've got it. You know, but in terms of ag's perception, they perceive that the load is too heavy and they also perceive that the way that we arrived at the equation for the load is not fair, both. [LB1077]

SENATOR HADLEY: Okay. Thank you, Senator Cornett. [LB1077]

JOHN K. HANSEN: That's just...that's the view and those of you who...I thank the committee for taking the time to go across the state of Nebraska. Thank you very much for doing that last summer. So you got a pretty good...a pretty good indicator of how folks feel out there. [LB1077]

SENATOR CORNETT: Senator Adams. [LB1077]

SENATOR ADAMS: John, the buying for recreation, the 1031s, I get all of that and they do distort the values and it's not a clear picture. But in the midst of all of this, how do we figure in also in many places the reality that values are going up because it's farmer versus farmer? [LB1077]

JOHN K. HANSEN: Yep. [LB1077]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
February 18, 2010

---

SENATOR ADAMS: My late father-in-law farmed pre-World War II up to the day he died. He'd always go to sales and come home, "dadgone," I can't buy it, it won't pencil. But it's the guy down the road buying it. It wasn't the fellow that lives out here on the edge of Lincoln that sold his land to Walmart. It was the neighbor down the road. And those are ag producers bidding against one another for that section pushing those values up. I mean how does that figure into this mix? [LB1077]

JOHN K. HANSEN: Well, it's an excellent question. It's one I've been taking from the press for a very long time and I try to explain that if you're a farmer or you're a rancher and you're in a high-volume, low-margin industry and everything that you're learning in your real-world experience, as well as all of the professional folks and academic folks at the university and everybody else will tell you that you've got to get to a certain scale of volume to make things work, is that there's a tremendous amount of internal push to get larger. And so the value of 80 acres coming up is not what the value of that 80 acres is, if you just look at it...when you look at the marketplace value of it. It's not the earnings capacity of that based on cost of production, amount of margin, you know, what reasonable cost cash flow you can develop and how much you can afford to pay over, you know, a 20-year loan. It's how much money do you have and margin you have in the rest of your operation and how much money will Senator Utter loan me, so that when that comes up, if I want that to fill out a quarter so that I could pit a pivot on it or it has a nice house and I've got a kid that's going to be wanting to come back in the operation and it would put them closer to home so that I could put them there, it's the total amount of equity that you've got in your entire operation is used and the margin you have and everything else that you own is used to bid against your neighbor, who's doing the same thing in a lot of cases for the same reasons, so that you can then, you know, use all of the resources to buy that additional 80 acres or quarter. And so you're seeing some sales that just are, you know, make no sense whatsoever but that's really what's going on. And so the aggies will take the margin out of the rest of their operation and they'll use that to buy that, to chew, bite and chew that one additional chunk of debt until they finally get that done so that then, when another one comes up and Senator Utter will maybe loan him the money again, then they'll bet the rest of their margin on another one. [LB1077]

SENATOR ADAMS: I had a farmer tell me the other day, he said, well, my son thought that was way too much to pay for the land, and I said to him, well, but the land that you're farming now when I bought it was way too much to pay for the land. [LB1077]

JOHN K. HANSEN: Yeah. Yep. Yeah, in my family, I mean it was the standard thing, is that we all said it cost too much money and then, after it was over, we said that was the most expensive mistake we ever made is not to buy it then because then we ended up buying it later for a lot more money. (Laugh) And so it goes. Everybody who buys land thinks it's too much at the time. [LB1077]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
February 18, 2010

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SENATOR ADAMS: Thank you. [LB1077]

JOHN K. HANSEN: And so, you know, as long as ag land continues to go up in value, you're going to see that kind of pressure and I don't, you know, Katy, bar the door if we start rolling back down the hill in the other direction. [LB1077]

SENATOR DIERKS: Other questions for John? Senator Louden. [LB1077]

SENATOR LOUDEN: Yes. Well, thank you, John, for your testimony. Does Farmers Union, have they considered an alternative way to fund schools? Because, I mean, as we look all over the state, especially when you get in your rural counties, 75 percent of the valuation for a school district comes perhaps out of ag land, I mean where you have these rural counties that don't have much of a commercial district or anything. And that's, you know, when you say whether or not it's fair, well, I think that's what we've run across in a lot of rural areas. People are paying a lot more to support that school than probably the people that live in town that have all the kids or something like that. Now have they ever come up with any idea that they want to come up with an alternative way to fund schools? [LB1077]

JOHN K. HANSEN: Thank you, Senator Louden, for the question. We have tried to...we've tried lots of different things down through the years. I saw Senator Tim Hall out in the Rotunda this morning and I went over and commiserated with him. He was the last senator that we worked with where we really took a serious run at trying to broaden the sales tax base in Nebraska. And we were trying to remember what our high watermark was, but I think it was about 17 votes was about...we were right in that 13 to 17 vote area was the most we could do. And it was a real challenge but it was trying to find a set of services that you could broaden where, you know, you were able to get enough revenue that was reasonably broad-based and fair and so you wouldn't adversely impact business buying decisions based on the rate. And so we mixed and matched lots of different kinds of services and we were not successful but we certainly stimulated the Lincoln economy because there was a lot of money spent that session (laugh) with lobbyists coming in and saying, not us; you know, if you want money, here. And so we had lobbyists throwing other clients under the wheels (laugh) and it was a very interesting process, but we could never get enough votes to broaden the sales tax base. And so if you look at income, sales, and property, the problem that you brought up is one in rural districts, where you certainly don't have any mix of economic basis in the county or in the district, is that no matter how you value it based on the percent of the total cost of K-12 education that comes from property, no matter how you do it, the aggies are going to pay for it anyway. I mean it's just (laugh)...because they own the bulk of the valuation in the county. So whether you value it high and then going back to the levy question of Senator Hadley where you have a low valuation and high levy or a...or vice versa, they're still going to pay it all anyway because they're the only real basis of wealth in the county. [LB1077]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
February 18, 2010

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SENATOR LOUDEN: Well, and that's where we're having...in the areas where I live we have these districts that aren't equalized or don't receive any state aid to education, and there's many of those ranchers that at least 25 percent of their gross income is going to property tax and probably somewhere around 75 percent of that property tax goes to support the school system now. [LB1077]

JOHN K. HANSEN: Yes. [LB1077]

SENATOR LOUDEN: Then that gets into another issue: Should we...how much of a school system should we support unless they're spending at least 65 percent of their budget on education...or instruction? We have districts that aren't there so where do you start, I guess, chopping down on the tree? Do you start down low or do you start up high? And that, to me, is the puzzle of the deal. [LB1077]

JOHN K. HANSEN: Right, and it's a challenge. There's just no question about it. I was just in Kansas earlier this week, in Topeka, and visiting with some folks down there on some issues and they're struggling with the same thing and their education system is really in a lot worse shape than ours is right now. They're really struggling with their state budget and schools, you know. And while you want efficiency in schools, we have also consolidated a lot of schools and after they get passed the two- or three-year sweetener of the consolidation money, they're back to letting the demographics of the district, you know, cue the state education formula and they have the same problem in the new consolidated district that they had in the old two or three smaller districts. And in some cases, we dried up some small towns because young folks are not going to move to a small town where their kid can't walk to grade school. It's just about that simple. And so we didn't really save very much money. We kind of traded trucking for administration, if you look at it from a transportation side, but we...you know, so we're...in a lot of cases, our system is just about as efficient as you can make it given the geographic size of the area and the demographics and the population you're trying to serve, and so we're still struggling. I don't know what the answer is but it seems like there has to be more participation on the part of income and sales,... [LB1077]

SENATOR LOUDEN: Okay. Thank you. [LB1077]

JOHN K. HANSEN: ...which are more accurate reflections of earning capacity than the fact that you own property. [LB1077]

SENATOR DIERKS: Other questions for John? Guess not. Thanks so much, John. [LB1077]

JOHN K. HANSEN: Thank you very much and I wish the committee well. [LB1077]

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Transcriber's Office

Revenue Committee  
February 18, 2010

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SENATOR DIERKS: Next proponent, please. Anyone else in support of LB1077?  
[LB1077]

DAVE McCracken: Good afternoon. Madam Chairman is gone so, Cap, I'll address you and members of the Revenue Committee, my name is Dave McCracken, D-a-v-e M-c-C-r-a-c-k-e-n. I'm here representing Nebraska Cattlemen in support of LB1077. And he's also my senator, Mr. Karpisek. I appreciate it. I've also been here several times. Senator Coordsen was also my senator and we really appreciate the chance to address this. I've heard...I have some other things here. I am a farmer/stockman from Friend, Nebraska. I have served on the Nebraska Cattlemen board of directors. I've been their taxation chairman and I'm currently serving as the taxation chairman for the National Cattlemen's Beef Association. The Nebraska Cattlemen's legislative committee voted to make this bill one of their priority bills. Each year we select three or four priority bills. This has been our priority bill each year it's been introduced, I believe. Property taxes for ag on a capitalization basis, in our estimation, is the best way to go and we think that...and, personally, today I've heard more positive information from the committee than we've ever heard before. You folks traveled throughout the state last year and listened to the complaints of the people and I applaud you for that. I think that's a very good start and I think Senator Karpisek introducing this bill is a good place to get this started. We need to...we need to address this. As all the people have said before me, the states around us have...I mean if you cross the border into Kansas or Wyoming, the taxation for a cow, if you just put the number of acres to support a cow are much less in those states. We appreciate education and counties that need the money, but we just think there should be a more fair way to do it and we think this is a start. I think you'll find very few people in the state of Nebraska that think their property taxes are too low, but we feel this would be a start. Perhaps individually and personally on the rec thing, I think that's in my neighborhood, only a few miles from Lincoln, my sister recently sold a farm and it was strictly for recreational. I mean it had good deer hunting on it and it brought way more than I personally could give for it to run my cows on. So I think that's something that we need to look at. Also, I've heard some references today with the University of Nebraska Institute of Agriculture and Natural Resources, and also the Department of Ag being involved in perhaps trying to find this capitalization formula, and I think that's a very good idea also. We work with those folks a lot on environmental issues and a lot of things, and I think that's a good place to start. I think all the other items that I had here have already been covered and so, in essence of your time, I would take any questions you might have. [LB1077]

SENATOR DIERKS: Thanks, Dave. Any questions for Mr. McCracken? Senator Louden. [LB1077]

SENATOR LOUDEN: Yes. Well, thank you, Dave, for being here to testify today. Has the Cattlemen come up with any alternative method for funding schools? Because, to me, that's the key to the whole thing. I mean this is what drives it. That's the only thing

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
February 18, 2010

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the state has an effect on, our property tax, is the school situation. If they want to pay more state aid, why, our property tax will go down. If they pay less state aid, our property tax goes up, simple as that. What have... [LB1077]

DAVE McCracken: You've been here since Senator Coordsen. If you remember him, he would always say to me, when I would be complaining about my tax, he would say, well, Dave, how are you going to pay for it? And so, yes, our policy is sales and income tax. We feel that's a much more...much more fair and even tax. It spreads the financing of schools much more evenly than the value of ag land because of out-of-state sales or recreational sales or 1031 exchanges. So our policy is that we would prefer to see it on sales and income tax to finance the schools. [LB1077]

SENATOR LOUDEN: Okay. Thank you. [LB1077]

SENATOR DIERKS: Other questions? Think you did well. [LB1077]

DAVE McCracken: Thank you. [LB1077]

SENATOR DIERKS: Thanks, Dave. Other proponents, please, for LB1077. Whenever you're ready. [LB1077]

EHME S. GRONEWOLD: Members of the Revenue Committee, my name is Ehme Gronewold. I'm a farmer from Gage County. I've been a past board member. My name is spelled Ehme, E-h-m-e, last name is G-r-o-n-e-w-o-l-d, and I'm here just to relate some of the problems that we have in the neighboring county to the south. I served as a supervisor on the board, started that 16 years ago or about 15 years ago now, and at that time I thought things was kind of out of whack as far as property tax was concerned. Now Senator Utter I see...or Louden I guess it is, you said you've been on it for 50 years, been working on it, and haven't gotten much progress. Well, I thought 16 was quite a while for me and I, if anything, we're in worse shape now than we were when I started. And some of the reasons that I think this bill really has some merit is because at least it creates the ability to pay. If you have made some money, the income to it, why, it would certainly address it in that fact. And the other thing that I have a problem with is like in our county, where you have valuation like ag land, for instance. We have 50 percent of the total valuation in Gage County is ag land or probably a little more and the rest is residential and commercial and what have you. So this really creates a burden on the ag sector because there's only about 15 percent of the taxpayers that pay on ag land and there's about 85 percent of the taxpayers that pay on the other property. So then when you have school bonds and things come up to be, you know, and everything, why, you have this very unfair situation as who's going to pay the bill. If I had a \$100,000 house and that's all I had to pay on, why, I'd be in favor of just about everything they wanted to put in schools. But if you've got a farm or a piece of ag land that you have to pay on, and the average ag producer out there needs a quarter of

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
February 18, 2010

---

a million dollars worth of land anymore to make a living, why, it creates a burden. And if you're in the right thing at the right time, like the grain has been pretty good the last couple of years, it still works. But if you've been in pork or if you've been in cattle or if you've been in dairy and you're barely able to break things even, why, it creates a hardship. And I don't like to see my kids get into a situation, or my children, get into a situation where they have to live with a hardship just for the sake of being a farmer or being an ag producer, and this is exactly what this present revenue system does with placing a value on ag land. The other thing that I haven't heard mentioned here today is there's such a difference in counties. Now you take a county if you was out way in the western part of the state and 95 percent of the value that's out there was ag land, what if it went up and down a little bit? It wouldn't really make so much difference. But if you're living in a county where you have values like we do in Gage County, it creates a definite hardship. And I think you'll find that in more counties surrounding your bigger, metropolitan areas that that's the case. And so that's why I think this bill really has some merit. If you can get it figured out to where you can get the income to operate the schools and that, and there's other sources of revenues out there, just nobody likes to mention them, because it's been tried in the past and it hasn't worked, but we get into a situation as severe as what this is now with creating hardship on people that are still out there, why, then I think then maybe we have to relook at some of them issues and some of them other sources of revenue that are out there. I don't want to take up too much of your time. I don't really represent anybody but myself and ag producers in our area, and I've been associated with the Gage County Board of Supervisors for a number of years and so this is my thing and this was what I wanted to tell you. And I'd certainly like to address any questions that you might have. [LB1077]

SENATOR DIERKS: Thank you. Questions? [LB1077]

SENATOR CORNETT: Questions from the committee? Seeing none... [LB1077]

EHME GRONEWOLD: No questions? [LB1077]

SENATOR CORNETT: Sorry. No questions. Thank you. [LB1077]

EHME GRONEWOLD: Okay. Thank you. [LB1077]

SENATOR CORNETT: Further proponents? Opponents? Neutral testimony? [LB1077]

JON EDWARDS: Good afternoon, Senator Cornett, members of the committee. My name is Jon Edwards, J-o-n E-d-w-a-r-d-s. I'm here today representing Nebraska Association of County Officials. We are neutral on LB1077. I heard a lot of different arguments today. Heard "fairness" come up a lot, so I really won't...I won't go back through that. I mean, and really these are policy questions about how we're going to work through the ag land problem and the property tax issue, in and of itself, that's

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
February 18, 2010

---

become very problematic and much in the public eye. I will just tell you, just to touch on a couple of basic things about as we look at the structure in the bill as it currently is, there were some concerns or some issues brought up as to how it might function in that it appears as the policy is constructed in the bill, the state would be very involved in setting the ag land values and making sure, first of all, that that formula that they use, and the input and so forth, is proper, functioning properly. And the issue that the assessors had brought forward is one of how exactly that will work in terms of their role in that process, how will it work in terms of BOE questions, questions going to TERC, those types of things, who's going to represent who, how that technically will work, issues like that, that would kind of need to be worked through in how they're going to function if we're going to separate how we do the valuation process. That was the main thing in a technical matter, other than just looking at the formula and will it work. And I think, you know, we've talked with Senator Karpisek and we've heard a lot today about really hard numbers, will it work; you know, can we get some numbers, get a formula put together, put the numbers in the formula, see where we're at, see what it looks like, is it sustainable through the years. That's the big issue for us. In the end, you know, as a broad...as you look at it from a broad sense, really the needs of the communities and the citizens and the tax needs are not going to shrink to any great measure. That's always going to be there. It's going to be a matter of figuring out how we pay for it. And so you're either going to shift within the subclass itself or shift to other classes or in the end somebody pays and it's a matter of how do we want to do that in the state of Nebraska; what's the best and most fair way to do that. And I think that's a policy question the Legislature is going to have to work through with input from its constituents and citizens in the state. And certainly I think, from our perspective, we think it would be very useful to really get a concrete formula idea established, get some real numbers, start working through the formula and see what it looks like in a couple years. And if it's something that might work, looks like it's sustainable, then certainly maybe we go that direction policywise in statute, make the changes necessary. So really, that's all I have to add to the conversation today, and I'll conclude my testimony with that. Thanks.  
[LB1077]

SENATOR CORNETT: Questions from the committee? Seeing none, thank you.  
[LB1077]

JON EDWARDS: Thank you. [LB1077]

SENATOR CORNETT: Is there anyone else to testify in a neutral capacity? [LB1077]

DAVID WRIGHT: Thank you, Senators. My name is David Wright and I'm the president of Independent Cattlemen of Nebraska and we're taking a neutral position on this particular bill. I've listened to...I had all kinds of testimony to talk to you about, you know, in Holt County ag versus non-ag is two to one. At the ranch, you know, the value to run a cow for a year is \$4,100 in land. If you base it on what it makes, what profit it

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
February 18, 2010

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makes...or not profit, just what gross income will come off of it, \$200 for rent, \$70-a-ton hay, comes up to \$410. So if you run down that kind of a road, you're going to take that value that was used to help fund the government and the schools and you're going to reduce it by 90 percent. So what...as you know, I own a newspaper also and I have a main street business and I ranch, and on the ranch currently I spend 17 percent of my gross income on property taxes, 17 percent. The newspaper pays .12 percent of its gross income on property taxes. And the newspaper has 13 employees, the ranch has 1, so when it's time for a vote to add something to the school or to do anything, the ranch does not get much of a vote. So I was thinking the other day about this and it reminded me when I was a kid. When I was a kid, we didn't have very much money. We still don't have very much money because we pay property taxes. But we had to split a can of pop between the three of us kids, and that's what people always look for. They look for what's equal and what's fair. And as kids, you lined up and you made sure that there wasn't any more pop in one other glass than another. What we currently have is we have a system where we have people who have no property who pay no taxes. They don't support the local government or a school at all. And then we have those who have nonagriculture property and they don't pay a whole lot. And those who have agriculture property pay a lot. Now we all know that what we really want is we really want these to wind up close to the same. If we keep taking and changing the laws to take some more out of this one and put it in this one, now you're going to have a different group that's going to be angry and upset. So it's our position at the Independent Cattlemen of Nebraska, the best way to get it so that it's equal and fair is to go to a sales tax system where every...all sales are taxed to help fund government and the school system. Like I said, currently I pay 17 percent at the ranch. I could pay 5 percent sales tax and be 12 percent further ahead on everything I purchase. So taxes, this might seem crude but I'm a rancher, taxes is like a pile of manure. You need to...you need to lower it and you need to spread it, and when you lower it and you spread it, you're going to reap the benefits from it. But as long as it's in a pile, where one group of society pays for it, all it does is stink. So I would, you know, I'd entertain some questions. [LB1077]

SENATOR CORNETT: Senator Dierks, did you have a question? [LB1077]

SENATOR DIERKS: Oh, maybe. David Joe, if you were making a profit on your cattle operation, would you have as much of a problem with the property tax? [LB1077]

DAVID WRIGHT: In past years I probably wouldn't have, but since I've owned a main street business I really do now. From...just from the school bonds that have passed and, like I said, I have 1 vote at the ranch and the newspaper has 13, that's just...it's not right. [LB1077]

SENATOR DIERKS: Okay. Thank you. [LB1077]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
February 18, 2010

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SENATOR CORNETT: Senator Louden. [LB1077]

SENATOR LOUDEN: Yeah. Well, thank you for being here today and offering us all a drink. (Laughter) And we've heard this before at your convention and that and, yeah, it works good. My question is, is how do we get the money back to our counties on our county level to fund our counties, our fire districts and some of those like that if we have a sales tax? Because if it's a sales tax, it all goes down to the state first. [LB1077]

DAVID WRIGHT: Uh-huh. [LB1077]

SENATOR LOUDEN: And have you got a surefire method that everybody will get their cupful back from the state when they need it and will the cup be full or will it be partially full like we've seen in the last few years on some of these short years? I mean we've cut down the jail fees and everything else that comes back from the state and some of the road funding and that sort of thing. In other words, your cup didn't get filled up as much as you thought it should. [LB1077]

DAVID WRIGHT: Uh-huh. [LB1077]

SENATOR LOUDEN: So how do you handle that? [LB1077]

DAVID WRIGHT: Well, as I talked about at Hyannis when we had a meeting there, several years ago I was in Scheels buying some merchandise and they asked me for my zip code, and I could not figure out why they wanted my zip code and they said so they could...for marketing reasons. And it dawned on me at that time...I should back up. In 2002, I ran for the Legislature and this was one of the things that was really a crux in Wheeler County that I couldn't get over, because in Wheeler County they don't have any place to buy merchandise. They go to Grand Island. So if you go to a sales tax system, you have to get that sales tax back into Wheeler County somehow. Well, like I said, I was at Scheels and they said they wanted my zip code, and it dawned on me why, when we have a sale, why don't we tie it back to a school district or a zip code to make sure those fundings get back to that particular area that you reside in or that you represent in the course of that transaction. To me, I think that can be done, I really think that can be done. The amount of money that we spend doing this survey or this study, the amount of money that we spend on assessors assessing property, the amount is astronomical what's paid or what's required to service property taxes. If we can just come up with a device or a system that as we have those sales that money goes back to those school districts, I think that would work just fine. [LB1077]

SENATOR LOUDEN: You think then that would, okay, I understand how you would get the money that's spent in your county back there, but the reason you have a sales tax is you get people coming through the country and you get their tax money. I mean that's the reason towns have a sales tax. It's those people out in the country are helping

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
February 18, 2010

---

support their property tax and everything else. How do you handle that money then from people out of state that come through and pay sales tax then? You're sure not going to send it back to them. [LB1077]

DAVID WRIGHT: Well, currently, how do you handle it now? [LB1077]

SENATOR LOUDEN: Well, they keep it all...or I mean the state...the state... [LB1077]

DAVID WRIGHT: No, no, no, the sales tax...it stays where? It goes to Lincoln. [LB1077]

SENATOR LOUDEN: It goes into the state General Fund. [LB1077]

DAVID WRIGHT: All right. But that's...all right, so...but we don't worry about that because that money came through and it was going to go to the state anyway. What we're interested in is those who live in that school district, how can they help equally support their school. And the best way that I see that they can do that is through a sales tax system. So all other revenues that come from people crossing the state was the state's before, so it should still be the state's. [LB1077]

SENATOR LOUDEN: Okay. Now...okay, by doing that then, then as Senator Karpisek's bill asking for a study from somebody, should that be what the study should focus on, is how you're going to get your sales tax money back in there or enough of it back to fund your local entities, whether it's your schools or your fire districts or cemetery, whatever you have? And I mean there's a load of them in every county to do. And then that should... [LB1077]

DAVID WRIGHT: Uh-huh. [LB1077]

SENATOR LOUDEN: ...be the study, to see if actually all that money would get back to the right place? [LB1077]

DAVID WRIGHT: Well, with all due respect to the senator, I'm not a senator and it's his bill so if that's what he wants to do, that's... [LB1077]

SENATOR LOUDEN: Well, I'm asking you... [LB1077]

DAVID WRIGHT: Right. [LB1077]

SENATOR LOUDEN: ...if you think that that should be a focus. [LB1077]

DAVID WRIGHT: But that's what I would...I would rather see a study done that shows the feasibility or even the capability of tying a sales tax back to the school district from those within the school district and also the county. [LB1077]

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Transcriber's Office

Revenue Committee  
February 18, 2010

---

SENATOR LOUDEN: Okay. Thank you. [LB1077]

SENATOR CORNETT: Further questions? [LB1077]

SENATOR UTTER: Thank you, Senator Cornett. Mr. Wright, would you attach that sales tax that you're proposing to the sale of real estate? [LB1077]

DAVID WRIGHT: I would attach it to all sales, to all sales, because what it comes down to, when we talked about this in Thedford, one day we had a meeting and there were several people from several counties that showed up, and it was the agriculture people that tend to get upset because they say, do you know how many barrels or how much diesel fuel I buy and how much fertilizer I buy. And my response back to them is do you know how many barrels of ink I buy? Do you know how many semi loads of paper I buy? I don't pay sales tax on it. I don't pay any tax on that. So all sales of...every sale, every transaction, we think that you should...there should be, if there was a sales tax, and according to some of the numbers that we've looked at, I had made the comment about 5 percent, it looks like if you taxed every single transaction there's a possibility you could shove that clear down to 2 percent. And it's just like I said about the manure. You know, the best way to get a return is to spread it thin and spread it and let everybody help participate, and that's when you're going to get your most benefit back. [LB1077]

SENATOR UTTER: Thank you. [LB1077]

SENATOR CORNETT: Just a quick question, and we were discussing it. If you removed all of the exemptions on inputs in agriculture and taxed agriculture at every step of the way, would your end product still be competitive with products produced in other states and on international markets? [LB1077]

DAVID WRIGHT: Yes, it would. Currently I'm paying 17 percent. Currently, when I sell, I sell...this year we sold \$550 calves. [LB1077]

SENATOR CORNETT: I'm also referring to grain. [LB1077]

DAVID WRIGHT: Well, same with grain. I had talked to my brother-in-law who farms and his particular tax on his property is \$30 an acre. So at 200 bushel to the acre, at 200 bushels to the acre at \$3 a bushel, at 5 percent, that comes up to \$30. [LB1077]

SENATOR CORNETT: I'm talking about after having taxed everything that goes into producing that grain... [LB1077]

DAVID WRIGHT: Right, and that's what... [LB1077]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
February 18, 2010

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SENATOR CORNETT: ...because you have to... [LB1077]

DAVID WRIGHT: That's what I'm saying. Currently, he's paying, if you think about it, he's already paying 5 percent in the form of property tax, right? If you remove the property tax and he pays 5 percent on all the fertilizer, he pays 5 percent on all the fuel, on the labor, on his repair bill, it's still only 5 percent. It's still only 5 percent of his gross receipts, same with...see, same with the calf. Right now I'm paying 17 percent of my gross receipts goes to property taxes. I could pay 5 percent on every grain of feed I buy, I could pay 5 percent on every repair, I could pay 5 percent on labor, I could pay 5 percent on everything and I would still be 12 percent further ahead. [LB1077]

SENATOR CORNETT: Senator Hadley. [LB1077]

SENATOR HADLEY: Senator Cornett. Who is going to make up the 12 percent? If it goes away, you know, if the dollars... [LB1077]

DAVID WRIGHT: Uh-huh. [LB1077]

SENATOR HADLEY: ...we need to spend... [LB1077]

DAVID WRIGHT: Uh-huh. [LB1077]

SENATOR HADLEY: ...to run local government, schools,... [LB1077]

DAVID WRIGHT: Uh-huh. [LB1077]

SENATOR HADLEY: ...everything else doesn't change... [LB1077]

DAVID WRIGHT: Right. [LB1077]

SENATOR HADLEY: ...and we change the formula so that the property taxes are going to pay 12 percent less on a \$3 billion budget,... [LB1077]

DAVID WRIGHT: Uh-huh. [LB1077]

SENATOR HADLEY: ...whatever we have, that means we've got to...we're going to have to either raise income taxes... [LB1077]

DAVID WRIGHT: No. [LB1077]

SENATOR HADLEY: ...or sales taxes to make up for that decline. Would that be fair to say? [LB1077]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
February 18, 2010

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DAVID WRIGHT: Right currently in the state of Nebraska, there's no taxes paid on that...those products currently. [LB1077]

SENATOR HADLEY: Uh-huh. [LB1077]

DAVID WRIGHT: And currently the state has a law...the law says that if you're taking...well, I'll use...yeah, if you're taking steel, you don't pay sales tax on that steel that you purchased that you might make a washing machine out of later. All right. Currently, if they're not paying taxes on fertilizer and feed and they're not paying taxes on fuel and they're not paying taxes when they slaughter it and they're not paying taxes at the grocery store because food is exempt, that whole system didn't...there was no tax, there was no revenue generated from that whole system, the entire system. If you were to tax all transactions, and as you know, I look at Senator Pahls's stuff, it looks like you could drive that sales tax down to 2 percent and eliminate property taxes, personal property taxes. [LB1077]

SENATOR HADLEY: So just one more follow-up then. So what's your...you know, and I had asked Mr. Hansen. Your concern is with the equity of what we pay in property taxes. It's not a valuation concern. You're not concerned about the way we value ag land. You're more concerned that we should not have property taxes as one of the three legs of the stool that support government services in Nebraska? [LB1077]

DAVID WRIGHT: Exactly, because property taxes, there's too many variables in it. You got irrigated, you got nonirrigated, you got ag, non-ag. And then if you start trying to decide if it's based on how much finances it creates, whether it's profit or gross, that's open to interpretation, that's open to manipulation, and you're opening an entire can of worms about how you're going to regulate that particular system. [LB1077]

SENATOR HADLEY: Okay. Thank you. Thank you, Senator Cornett. [LB1077]

SENATOR CORNETT: Further questions? Senator Dierks. [LB1077]

SENATOR DIERKS: A number of years ago there was a move on in Nebraska to establish a transaction tax. [LB1077]

DAVID WRIGHT: Uh-huh. [LB1077]

SENATOR DIERKS: As a matter of fact, I introduced the bill here for the people that were promoting it. I don't remember exactly what the percentage was but it seemed like in the neighborhood of 1 percent on each transaction. Seller and buyer would pay for all the taxes that we generated any other way. [LB1077]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
February 18, 2010

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DAVID WRIGHT: Uh-huh. [LB1077]

SENATOR DIERKS: That would take care of all income tax, all property tax, just that 1 percent on each transaction. That included financial transactions at the bank. [LB1077]

DAVID WRIGHT: Uh-huh. [LB1077]

SENATOR DIERKS: That included every... [LB1077]

DAVID WRIGHT: Uh-huh. [LB1077]

SENATOR DIERKS: Needless to say, it didn't go very far, but we've tried. We've talked about that, David, so it isn't exactly something new, but we did try to do that once. [LB1077]

DAVID WRIGHT: I understand, but somewhere, somewhere this state has got to realize you can't dump all the pop in one glass and expect them to take care of it. If you go out in Ewing, Nebraska, when my dad was a senior in high school, was 800 people. When I was a senior it was 500 people. Today it's 400 people. The town I'm in right now, Neligh, when I was a senior was a Class B school. Today Neligh is a Class D-1 school, D-1. And as long as you keep burdening agriculture with this chore to maintain local government and the school system, you're going to see consolidation. My brother-in-law farms 40 quarters. The Smith boys farm 40 quarters. Their brother farms 40 quarters. And every time that happens, you've just eliminated another family that's going to help, that would have in the past helped spread that cost and helped pay for it. Somebody has got to wake up and see that. I mean if we continue down this path, to an extreme, I can see five corporations running the entire agriculture sector of the state of Nebraska. I wish Mister... [LB1077]

SENATOR DIERKS: I thought they already were. (Laugh) [LB1077]

DAVID WRIGHT: Yeah, well, I wish Mr. White was here because I missed him in Hyannis and see he's gone again. (Laugh) [LB1077]

SENATOR CORNETT: Further questions? Seeing none, thank you. [LB1077]

DAVID WRIGHT: Thank you. [LB1077]

SENATOR CORNETT: Is there anyone else to testify in a neutral capacity? Senator Karpisek. [LB1077]

SENATOR KARPISEK: Thank you, Senator Cornett and committee. I think it has been a very good, very good debate today. I guess I'll call it a debate. I have always heard,

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
February 18, 2010

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though, the reason there isn't tax on ink and paper is because they'll write bad stuff about us if we do that. But I think that happens anyway, doesn't it? [LB1077]

SENATOR CORNETT: I was going to say, they do anyway. (Laugh) [LB1077]

SENATOR KARPISEK: So that one we might as well do away with. Senator Adams brought up the fact of the farmer versus farmer driving prices up and that does happen, it sure does. And I always remind my farmer friends of that when they complain about their high property taxes, especially if they were one of the farmers bidding on that. The problem still is there. The guy next to it that didn't do that still is affected, and it just isn't right for him to have to get his raised so much. Now someday when he is gone or he retires and he sells it and he makes that kind of money, well, then he may feel differently about it I guess. I thought John Hansen brought up a good point about if ag land drops, and we don't want to think about that but it's been going up all the time, up all the time, so we get more money coming in to the schools, technically. What if it drops? What's going to happen then? Well, in this approach you could, theoretically, adjust that cap rate a little bit to bring more money in. Now I know I don't want to...no one wants to say that we would increase taxes, but if that bottom really goes out and we're sitting there without any money and we need to crank that just a little bit, it's possible. I don't know, I guess we could do it now, as Senator Hadley has said, on the levy rate. I don't know exactly how that would work, though. Mr. McCracken brought up the sales and income tax. You know, I think that's a good idea. I have been listening to Senator Pahls all along on his sunset tirade and, you know, I think a lot of what he says makes sense. I think it's hard to...it's another big, big problem, just like this one. It's not an easy fix and it's going to happen slowly. Again, we don't want to do this tomorrow. As the counties said, we just don't know, there's too many questions. I agree. We don't want to do it tomorrow, but I think tomorrow it would be good to start getting some formula together. Mr. Cheloha over there I don't think thought it was a real good idea maybe to send the sales tax back to where the people are from. I think Omaha and Lincoln might have a little problem with that one, but I did like that idea and (laugh) see where that goes. You know that happens a lot of times if you buy lumber in town, if you pick it up in town, you pay sales tax on it. If you have it delivered out to the house or vice versa, then there's not the sales tax. It's a thought. Same way across state lines, if you take it yourself it's different than if it's delivered. How about Internet, taxing the Internet buys? There's all sorts of ways out there. But my main concern is here to get a formula, look at it, don't adjust things too much right now, leave it the way it is, try to, and then try to think of how we can change it. But then we would have the mechanism to be able to change it. Thank you for your time on this matter. I know you've heard it many times. I appreciate you going out, looking at it. Appreciate the committee's help on it. Thank you. [LB1077]

SENATOR CORNETT: Thank you, Senator Karpisek. Questions from the committee? Seeing none, thank you. [LB1077]

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Transcriber's Office

Revenue Committee  
February 18, 2010

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SENATOR KARPISEK: Thank you. [LB1077]

SENATOR CORNETT: That closes the hearing on LB1077. Senator Dierks, you are recognized to open on the next two bills. [LB1077]

SENATOR DIERKS: Good afternoon, Chairwoman Cornett and members of the Revenue Committee. My name is Senator Cap Dierks, spelled C-a-p D-i-e-r-k-s and I represent the 40th Legislative District. I'm here today to introduce LB1031 to the committee and I think when I get through with this deal I'll put LB1032 right up next to it so you can testify on either bill or both bills or however the Chairman wants you to do that. I was asked by the Upper Elkhorn NRD located in O'Neill, Nebraska, to introduce this bill and the following bill which is LB1032. LB1031 simply removes the sunset clause from statute and allows NRDs who are labeled as fully appropriated or designated overappropriated to continue to levy a property tax up to 3 cents per \$100 of taxable valuation within the district. The additional money is to be used to administer and implement groundwater management activities. It is my understanding that when the initial bill of granting this levy authority was passed, the sunset clause was included to allow this review of the process. There are several NRD managers here today to tell you that the levy authority has been used, it has been successful, and is needed in the future. With that, Madam Chair, I will end my testimony on LB1031 and then I'll read to you testimony on LB1032. LB1032 allows NRDs who are designated as partially appropriated to have the same taxing authority as those that are fully appropriated or overappropriated. With this bill they can also levy a property tax of up to 3 cents per \$100 of taxable valuation within the district. All 23 NRDs are dealing with major water issues, tight budgets, and competing responsibilities. In fact, with the local budget issues as they are today, we have not given the NRDs the financial resources to resolve some of these water issues. Solving these water problems takes money to monitor and dissolve and to develop plans. This taxing authority is necessary for NRDs to obtain and administer the integrated water plans which can change from year to year. Once again, there are several NRD managers here today to tell you more about this process. With that, Madam Chair, I'll end my testimony and try to answer questions. [LB1031 LB1032]

SENATOR CORNETT: Questions from the committee? Senator Adams. [LB1031 LB1032]

SENATOR ADAMS: Senator Dierks, just as a matter of clarification, I just skimmed through the summaries, so taking two bills at the same time, one bill would extend the 3 cent levy authority on NRDs that are currently fully appropriated or overappropriated. [LB1031 LB1032]

SENATOR DIERKS: Yep. [LB1031 LB1032]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
February 18, 2010

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SENATOR ADAMS: And the other bill would allow the 3 cents for those that are fully appropriated or have been on a preliminary basis... [LB1031 LB1032]

SENATOR DIERKS: Yep. [LB1031 LB1032]

SENATOR ADAMS: ...said to be. Got it. Okay. [LB1031 LB1032]

SENATOR DIERKS: Now, if you would prefer to do just one bill at a time, that's up to you, Madam Chairman, but... [LB1031 LB1032]

SENATOR CORNETT: What I think I will do is just hear testimony for proponents for either bill or if they can come up and say which bill they are in favor of. [LB1031 LB1032]

SENATOR DIERKS: Okay. [LB1031 LB1032]

SENATOR CORNETT: Or both. [LB1031 LB1032]

SENATOR DIERKS: Thank you. [LB1031 LB1032]

SENATOR CORNETT: Thank you. With that we will open the hearings. Proponents, please state which bill you are in favor of or both. [LB1031 LB1032]

KENT MILLER: (Exhibits 2 and 3) Members of the committee, my name is Kent Miller. I'm testifying in support of LB1031. Again, my name is Kent Miller, K-e-n-t M-i-l-l-e-r. I am general manager of the Twin Platte Natural Resources District. Our offices are located in North Platte. I'm testifying in support, on behalf of our district the Twin Platte Natural Resources District and also on behalf of the Nebraska Association of Resource Districts who developed their position on legislative bills about two weeks ago in a legislative conference that I think many of you attended our reception. As Senator Dierks said, LB1031 eliminates the 2012 sunset date for the NRD 3 cent levy in fully and overappropriated areas which the NRD strongly support and I want to thank Senator Dierks for introducing this legislation. In the Twin Platte NRD, we are overappropriated, we are fully appropriated and we desperately need these monies to deal with that overappropriated and fully appropriated as was essentially required by LB962 which was passed in 2004. In the Twin Platte NRD, we have to get back initially to 1997 levels. That actually we have to get back there for two reasons. One is, we have to get back there and we're taking the measures we are from LB962. But the Platte River Basin is also involved in the Platte River Recovery Implementation Program, which is Colorado, Wyoming, and Nebraska and the federal government that the state agreed to, and is also the same 1997 level to get back to in that program as there is with implementing LB962. After we do the first initial ten years in the Platte Basin, we still have to get back to from overappropriated to fully appropriated. So we have a long

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Transcriber's Office

Revenue Committee  
February 18, 2010

---

road ahead of us to get back to that level. In the Twin Platte NRD we are maximizing the current available funds that we have, and I'll review that with you in a few minutes, and I just wanted to point out that if we're not successful in meeting the requirements of LB962 the consequences of regulations and the impact to the ag community will be far greater than the increasing or maintaining our additional 3 cents. It's very expensive to go into regulations. It's very expensive for the local area and the state if you start impacting the ag economy of Nebraska. I like to, you know, tell folks, you know, that really the only new money in the state of Nebraska comes from agriculture. And the rest of us, including myself, we're trading services with each other. And if we don't have that new money in the ag economy, you guys know well that Nebraska is in a difficult situation. Now as I indicated, the state has a commitment too and when...they're currently, we are one of the Platte Basins to use the Water Resources Cash Fund. That commitment is very appropriate. As I mentioned earlier, the state was the one who signed in the Platte Basin to enter into the Platte River Recovery Implementation Program. But in the Twin Platte NRD we are committing \$3 for every \$1 the state is making available to us in that Water Resources Cash Fund to meet the obligations to get back to 1997 levels. To accomplish this and to use these state funds in the Platte Basin, we have the Platte Basin Habitat Enhancement Program. That's in place right now. That's the mechanism to use the Water Resources Cash Fund. That is also the mechanism to utilize Nebraska Environmental Trust money that we were successful when getting a grant for and then leveraging that with our local tax dollars. But in the Twin Platte NRD on an annual basis for the entire basin, there's \$2 million from the cash fund, there's \$2 million being put in by the NRDs and there's \$1 million being put in by the Nebraska Environmental Trust. Then we bring that down to the Twin Platte NRD, our share of that cash fund is .6 million dollars, \$600,000. Our match with local property tax is \$600,000. The NET grant is \$300,000. On top of that we're putting in an additional \$1 million to make this work so that we feel that we have a chance to get back to the 1997 levels and meet the obligation of LB962 and the Platte River Recovery Implementation Program. In our district, three years ago, we had a total levy of 2.3 cents. The maximum levy available to NRDs is 7.5 cents. When you look at the 4.5 cents for the base levy, the 3 cents for the additional groundwater management, and the 1 cent for the...there's an additional 1 cent for groundwater management even if you're not in the overappropriated area. And I'm missing a cent there because our total maximum is 7.5 cents. Our levy went from two years ago of 2.3 cents to 6.9 cents. Last year our levy was 3.2 cents. Our board of directors doubled that, more than doubled that to go to 6.9 cents and that includes that 3 cents that's being...that sunsets in 2012. So that's why I wanted to point out to you that it is critical in the NRDs, in all of the NRDs. I wanted to try to focus specifically on the Twin Platte NRD that it is absolutely critical that we're able to maintain that 3 cents for us to be successful in implementing LB962 and for the state of Nebraska to be able to implement their obligation to the Platte River Recovery Implementation Program. I would like to submit for the record written testimony that was provided by the North Platte Natural Resources District and their general manager, Ron Cacek. Their offices are in Scottsbluff and by the Tri-Basin

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Transcriber's Office

Revenue Committee  
February 18, 2010

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Natural Resources District submitted by their manager, John Thorburn, who's offices are in Holdrege. And I'll just submit those for the record. [LB1031 LB1032]

SENATOR CORNETT: Questions from the committee? Senator Louden. [LB1031 LB1032]

SENATOR LOUDEN: Well, thank you for testifying. Right now you're testifying strictly on LB1031? [LB1031 LB1032]

KENT MILLER: Yes. [LB1031 LB1032]

SENATOR LOUDEN: Okay. There's another year left on it, right? It was set up for five years? [LB1031 LB1032]

KENT MILLER: It is set to sunset in 2012. [LB1031 LB1032]

SENATOR LOUDEN: Yeah, and it was set up in 2006-07 is according to the statute, yeah, five years. Would you be satisfied with if it, you know, had another five-year extension on it rather than taking it out completely? [LB1031 LB1032]

KENT MILLER: Sure. I mean, you know, I'm very willing to come back in five years and talk to you again if we need to have more extensions, but we just need to get beyond that 2012 and I would be satisfied with an additional five years. [LB1031 LB1032]

SENATOR LOUDEN: An additional four or five? Because, I mean, you haven't used your first five yet. [LB1031 LB1032]

KENT MILLER: Well, we didn't levy the additional tax dollars until we had to, to implement LB962. So it, basically in our district there was two or three years where we didn't levy that because we didn't...my board of directors didn't believe in levying dollars and putting it in the bank for the future. And we can't go back and get that money back now, so. [LB1031 LB1032]

SENATOR LOUDEN: Yeah, okay. Okay, thank you. [LB1031 LB1032]

KENT MILLER: Sure. [LB1031 LB1032]

SENATOR CORNETT: Further questions? Seeing none, thank you. [LB1031 LB1032]

KENT MILLER: Okay. Thank you. [LB1031 LB1032]

SENATOR CORNETT: Next proponent. How many proponents are there? [LB1031 LB1032]

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Transcriber's Office

Revenue Committee  
February 18, 2010

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MILT MORAVEK: Thank you, Senator Cornett and the rest of the committee. My name is Milt Moravek. I'm assistant manager and projects director for the Central Platte Natural Resources District at Grand Island. And I just want to... [LB1031 LB1032]

SENATOR CORNETT: Sir, could you spell your name? [LB1031 LB1032]

MILT MORAVEK: Oh, M-o-r-a-v-e-k. And I'd just like to reiterate what Kent has just told you. All of the Platte River NRDs, the North Platte, the South Platte, the Twin Platte and the Central Platte are in deep trouble when it comes to, number one, getting back to the '97 levels that we're required to get to, and also, number two, moving on and building up additional water that we're going to need in the future. And one of those additional waters is to the towns and communities. When LB962 was passed, the cities had enough lobbying power, they wrote themselves out of the bill for 20 years, as you know. If there's increased consumptive use in those communities over the next 20 years, the NRDs have to make that up. So that's above and beyond the 1997 levels. And Kent also talked a little bit about PRHEP. That's an acronym for the Platte River Habitat Enhancement Program. The long-term goal there is to add more than 15,000 acre feet of water to the Platte River itself. And that's going to take a few years. The problem lies in that the NRDs are going to have to come up with 40 percent of the money on that program. Just for our NRD to get back to the 1997 levels, we're going to have to buy 3,700 acre feet of groundwater or water to get back to that level. That means that we may have to dry up 6,000 acres of land, and most of that is going to be in the western part of our district in Dawson and Buffalo County because that's where we get the bang for the buck, and so I won't even mention at a great extent what that can do for the tax revenues for those local counties going from irrigated cropland to dryland cropland taxes. But that's another issue altogether. But just to come up with the money to get back to '97 for the Central Platte NRD in the 3,800 acres and the 40 percent and in some cases if there's no NET money available, we will have to pay 50 percent with the state to come up with the 15,000 acres that is needed to increase flows in the Platte River into the future. So this 3 cent need is...we just can't explain how important it is to keep the 3 cents. We feel we can do the job with the 3 cents. It's going to take a number of years and I would agree that if we can extend that for the four or five years past '12, it may be enough to get us there. I think we can do it. But I just wanted to let you know that Central Platte Natural Resources District strongly, strongly supports you adding or continuing to leave in the 3 cents under our authority. Thank you. [LB1031 LB1032]

SENATOR CORNETT: Questions from the committee? Seeing none, thank you. Next proponent. Since there were people outside the room, how many proponents do we have left? [LB1031 LB1032]

KRISTEN GOTTSCHALK: Senator Cornett and members of the Revenue Committee, my name is Kristen Gottschalk, K-r-i-s-t-e-n G-o-t-t-s-c-h-a-l-k. I'm the government

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Transcriber's Office

Revenue Committee  
February 18, 2010

---

relations director and registered lobbyist for Nebraska Rural Electric Association and I'm grateful that you're taking both bills at once because our justifications for support of both LB1031 and LB1032 are the same. The NREA generally has supported and will continue to support legislation and positions that have been developed to provide local funding methods for the Natural Resource Districts located in river basins that require or may require additional dollars to fund various methods to augment streamflows in order for them to meet compliance with river basin compacts, decrees, or other designations affecting the basin, subbasin or reach. Now NREA supports these methods to help reducing the number of irrigated acres and/or reducing water pumping allocations which will have a significant economic impact on the region in the state. And what I read to you just now is basically a policy statement taken by the Rural Electrics and it may seem to be a different position for the REA's to come in and talk about water issues but this kind of harkens back to what Kent Miller said about affecting the ag economy and rural communities in the state. And we do strongly feel that the rural communities in the state are the backbone of the state with respect to our economic viability. Funding for NRDs to solve water short years and water issue problems rather than simply going down and shutting down irrigation wells is a more innovative approach and giving them the tools and the additional funding, maintaining the funding beyond the expiration current date, and also allowing for those that are not maybe fully designated yet to begin the process to prevent some of these water shortage issues. The Rural Electric systems do provide electric service to a lot of those irrigation wells. In fact, in the western part of the state, I have some of our REAs that greater than 60 percent of their load, their entire load base would be irrigation, and the loss of that load base would be devastating which we first link to the utility because it would have a tremendous impact on our ability to manage low rates for the rest of our consumers. And in a worst case scenario that could mean the loss of that electric utility. And any situation losing that significant of a load base or stranding assets in that situation would cause electric rates to go up for all consumers within that utility and possibly utilities across the state. And this could have catastrophic impact not just on...you know, this goes beyond the farmer, the rancher who loses the ability to generate income, it also impacts, we've heard this before, seed dealers, fertilizer dealers, and also with the increase in impact of increased rates of electricity it would impact all of the consumers. Preserving the NRDs' levy authority to manage the water systems to find innovations, innovative solutions to manage the water resources to prevent those full scale shutdowns, we believe is critical. And we believe that that control or that management of those resources is best at the local level and we have a very strong feeling that the NRDs are fully capable of doing that. We do know that the NRDs aren't going to levy additional funds that they don't need. They're also taxpayers in those same systems and we have to depend on that aspect of local control to encourage them and know that they're going to make good decisions. With that, concludes my testimony. I'd be happy to answer questions. [LB1031 LB1032]

SENATOR CORNETT: Questions from the committee? Seeing none, thank you. Next

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Transcriber's Office

Revenue Committee  
February 18, 2010

---

proponent. [LB1031 LB1032]

DENNIS SCHUETH: (Exhibit 4) Good afternoon, Senators, Senator Cornett. I'm going to be testifying on both LB1031 and LB1032 in support and I'll start off with LB1031 and I do have some handouts. [LB1031 LB1032]

SENATOR CORNETT: Sir, could you go ahead and state your name and spell it for the record. [LB1031 LB1032]

DENNIS SCHUETH: I'm Dennis Schueth, general manager of the Upper Elkhorn NRD, D-e-n-n-i-s S-c-h-u-e-t-h, and good afternoon. On behalf of the Upper Elkhorn NRD board of directors I'm presenting testimony in support of LB1031. When LB1226 was passed in 2006, it allowed the Natural Resources Districts to levy up to 3 cents to study, administer and implement tools in the management of hydrologically connected ground and surface water. This taxing authority is only available to districts that are labeled fully or overappropriated. Currently, there are 13 districts that are eligible to levy this tax, seven of which are utilizing this funding mechanism. Amongst the seven districts utilizing this authority, the levy ranges from .055 cents to the maximum 3 cents. Currently, two of those seven are utilizing the maximum 3 cents. In 2002 approximately 8 percent or 150,000 acres of the Upper Elkhorn NRD was labeled fully appropriated by the Department of Natural Resources annual evaluation of the Niobrara River. One of the requirements of being labeled fully appropriated is the development of an Integrated Management Plan between the NRDs and DNR. This plan must be completed within three to a maximum of five years from the date of that designation. This effort has been put on hold due to legal challenges against the Niobrara River Basin designation. If this taxing authority is removed and the fully appropriated designation of the Niobrara is upheld, those districts impacted will have access to these funds for only two years. The DNR's annual report on the 2009 labeled 92 percent of the Upper Elkhorn NRD as preliminarily fully appropriated. The preliminary designation of the Lower Platte River Basin overlapped the Niobrara River Basin designation and encompasses approximately 1.8 million acres known as the 10/50 area. That's how the boundary is set up. The Lower Platte River Basin designation was reversed in 2009 leaving only the Niobrara River Basin portion of our district as fully appropriated. By allowing this taxing authority to expire in 2011-2012, districts may not be able to fully administer and implement their groundwater management and integrated management plans or activities mandated under the Ground Water Management and Protection Act. How would the districts that are currently utilizing this taxing authority continue to fund these projects or integrated management plans? Basins that are labeled fully appropriated after 2011 or 2012 will have a difficult time funding studies and projects if this funding tool is removed, is allowed to sunset. One of the biggest studies our district is involved with is a multiyear project that was started in 2005. The project is called the Elkhorn-Loup Model, an ongoing data collection and modeling effort to develop a numerical model for the NRD and DNR in the Lower Platte River Basin. Some NRDs

such as the Upper Elkhorn NRD will only be able to continue funding this project if a funding mechanism is available past 2011-2012. Within the ELM project area districts such as the Upper Elkhorn NRD have installed additional groundwater monitoring wells, installed data loggers, cost-shared on flowmeters, and transected river channels to determine losing or gaining sections of the stream in an effort to understand and protect the hydroconnectivity waters between ground and surface water. The Upper Elkhorn NRD is also in the process of certifying groundwater acres in the fully appropriated Niobrara River Basin and the Lower Platte River Basin 10/50 area. The district has hired a permanent part-time water technician for two years to help with these efforts and the expanding workloads on these projects. The Upper Elkhorn NRD would like to see this position become a full-time position after the two-year time frame. However, this position may be at risk and will have to be reevaluated based solely on available funding. Senators, we have been able to partially fund these activities within our current taxing authority. However, due to the 2.5 percent base limitation lid on the NRD's general 4.5 cent levy, we cannot reach that maximum 4.5 mill levy limit. The 2.5 percent base limitation lid which is calculated on restricted funds such as state aid in the previous year's property tax asking only generates approximately \$14,000 annually for the Upper Elkhorn NRD. Currently, 17 districts are utilizing the 1 cent groundwater levying taxing authority of which ten are utilizing more than 80 percent of that authority and the Upper Elkhorn NRD is one of those ten. The district also relies upon unstable customer sales, competing against other NRDs for 319 grants and environmental trust grants. The NRDs also rely upon the state adequately funding the Nebraska Soil and Water Conservation Funds and the Integrated Water Management Plan Program. It is uncertain what the states' budget shortfalls will be in the next few years, but as history has shown, state funds which are available to the Natural Resources Districts can be cut to balance the state budget. This was evident during the last special legislative session when the NSWCP and Interrelated Water Management Programs were reduced. These funds are vital in installing water conservation practices and conducting ground/surface water studies or projects. We know tough decisions had to be made and we all must share the burden in balancing the state budget, but a reliable local funding source is needed beyond 2011 and 2012. Senators, the Elkhorn River Basin NRDs and other NRDs want to continue collecting data that can assist local NRDs and the state in determining and managing the hydrologically connected water supplies for the future. Governor Heineman has stated that water is the issue of the decade and as you are all aware, it is an expensive issue and will inherently extend beyond a decade. The NRDs are willing to do their part in addressing this issue but they need the tools that allow them to do it and one tool that needs to remain is the statutory capability of raising funds beyond the 2011-2012 sunset. We are asking the committee to move this bill through, get it to the legislative floor for discussion, and give the NRDs this funding. That's a pretty strong statement there at the end. We know this is a short session and everything, but we need this discussion to start taking place. And on LB1031 I'll answer any questions if anybody have... [LB1031 LB1032]

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Revenue Committee  
February 18, 2010

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SENATOR HADLEY: Any questions for Mr. Schueth? Okay. [LB1031 LB1032]

DENNIS SCHUETH: (Exhibit 5) I have testimony on LB1032 and a lot of it is stated on the same. It goes back and forth very diligently. One of the things...I'm going to not read this by verbatim. One of the items that happened to the Upper Elkhorn NRD which was...we were one of the first ones where this happened or in the Lower Platte River Basin. The Lower Platte River Basin was designated as fully appropriated in 2009 and the back sheets of that testimony, there should be a map that looks like this, when it comes around, and I'll wait until that comes around so you can have a look at it. And again I'll hold it up. It resembles this and the Lower Platte River Basin is the area that is colored in the purple color. While the Department of Natural Resources was taking hearing, information on the hearing process, if you flip the map, that page over, that designation was reversed. So that portion of the state was no longer determined to be fully appropriated but LB483 was also passed in 2009 by the legislative body that still requires us to work within that area in the 10/50 area. We don't have to develop an integrated management plan, but we still have to do everything else as being labeled fully appropriated. We still need to collect data, that ELM model that I was talking to you before, that project is a \$2 million model that we're working on. And we need these funds to continue on with that ELM model. It's not going to be done in three years. It's going to be a continuing effort on the NRD levels to keep funding this process. You just got done listening to testimony on taxation. Well, this model will be able to help determine, you know, where is the best place to potentially develop additional irrigation acres if allowed. How should we look at transferring water from one portion of our district to another portion of the district? Milt Moravek from the Central Platte NRD made the comment, we will need to potentially buy water from irrigators to do offsets for the municipals and industrial businesses. So the NRD needs the opportunity to use this 3 cents fund after being designated either as fully appropriated or overappropriated back to a level of not fully appropriated because we still need to keep track of the water balance between groundwater and surface water. So our district and there were seven other districts that was impacted by the Platte River Basin designation. Those districts feel the same and so did our state association, NARD felt the same way. They are very supportive of these here two bills and I want to commend Senator Dierks for bringing this and presenting this type of legislation for you for discussion and hopefully enactment, get it on to the legislative floor, whether it's this year or next year, hopefully before the sunset clause happens. One of the things we may not as the Upper Elkhorn NRD may not have access to these 3 cents even though that the Niobrara River Basin designation is still a part of our NRD. There currently is a challenge against the designation on the Niobrara River Basin that encompasses our portion of the Upper Elkhorn NRD. That decision is going to happen, hopefully, in the month of March if that designation should be reversed also. But we are currently already doing a lot of studies, a lot of data collecting, not just for the local NRDs, but also for the state of Nebraska. And so I will take any questions, if there are any. [LB1031 LB1032]

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Transcriber's Office

Revenue Committee  
February 18, 2010

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SENATOR CORNETT: Senator Hadley [LB1031 LB1032]

SENATOR HADLEY: Senator Cornett, thank you. Mr. Schueth, I'm trying to work this through because you mentioned the prior testimony we had on the prior bill and some of that was that the feeling that the ag people were carrying an unfair share of the burden in property taxes versus urban people. In this instance, it's almost the reverse isn't it, because don't you charge urban people this, you know, this 3 cents would be on... [LB1031 LB1032]

DENNIS SCHUETH: It would be on all property taxes. [LB1031 LB1032]

SENATOR HADLEY: All property taxes, so in this case you can have a city say, or a city dweller say, I'm paying to help the ag. [LB1031 LB1032]

DENNIS SCHUETH: Exactly. [LB1031 LB1032]

SENATOR HADLEY: Okay. Which I'm not opposed to, but it's just opposed to earlier where... [LB1031 LB1032]

DENNIS SCHUETH: Yep. You guys have a fine line to walk. (Laugh) One way. [LB1031 LB1032]

SENATOR HADLEY: And I think we have to look at the big picture when we're doing these things because there are taxes that work. Thank you. [LB1031 LB1032]

SENATOR CORNETT: Further questions from the committee? Seeing none, thank you. [LB1031 LB1032]

DENNIS SCHUETH: Thank you very much. [LB1031 LB1032]

JOHN HANSEN: Chairman Cornett, members of the committee, again for the record my name is John K. Hansen, J-o-h-n, Hansen, H-a-n-s-e-n, as in Norwegian. And I am before the committee today in support of LB1031 and LB1032 and if you're thinking that the president of a farm organization is here supporting higher property taxes, you would be right. It is a difficult situation that we are in but the painful truth of the matter is, as best as I can ascertain it, is that the NRDs have been given this responsibility. There is no other pool of state monies that I'm aware of that's even on the table for discussion to fund these regulatory responsibilities. When a crisis in groundwater management decisions need to be made, it is absolutely imperative to have the very best data and information available. You can't wait until the crisis comes and then say, okay, now I'm going to need this baseline data and information so I can make a good management decision. So you have to have that in hand. So since there's...our preference, of course, would be to have some sort of other state funding mechanism. That's not going to

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
February 18, 2010

---

happen. That's just the reality. So if we're going to pay for it anyway, then why would we wait and play crisis management brinkmanship or play some kind of chicken to wait for another year. I don't see a pot of money showing up in another year. So the sooner you send clear signals to the NRDs that yes, we've given you this responsibility and yes, based on what we've done before, this is...you've used good judgment, you've used your authorities appropriately, you've gathered the information, you're going forward, and by the way, we're going to have you guys go to the local property tax guys and pick it up anyway. If we're down to the difference between whether you fund this activity or not, the cost of not funding this and waiting until you get to a crisis mode before we send this signal would, in our judgment, do more damage and cause more harm and more inefficiency in the management of our water resources than it would be worth by waiting and hoping somehow that somebody else is going to pay for it. If we're going to pay for it anyway, let's go ahead and combine the bills would be our recommendation and send them out and let's at least have a good clear strong signal that the NRDs know that this is going to continue to be their revenue source. And I don't think it will be any great surprise to any of the local property tax owners that this is coming. And I would thank Senator Dierks for bringing this, both of these bills, and we support the NRDs' position and would respectfully ask you to think favorably of both of these bills. Thank you. And I would be glad to answer any questions if I could. [LB1031 LB1032]

SENATOR CORNETT: Questions from the committee? Seeing none, thank you. [LB1031 LB1032]

JOHN HANSEN: Thank you very much. [LB1031 LB1032]

SENATOR CORNETT: Are there any further proponents? Are there any opponents? Is there anyone here to testify in a neutral capacity? Senator Dierks, waives closing. We will move to LB1107. Senator Pirsch, you're recognized to open. [LB1031 LB1032 LB1107]

SENATOR PIRSCH: Thank you very much, Chairman Cornett and members of the committee. I am Pete Pirsch, representing the 4th Legislative District. I am the sponsor of LB1107. LB1107 would change the priority of various special assessment liens of cities of the metropolitan class, primary class, first class, and second class as well as villages. In general, LB1107 would provide that specified special assessment liens will be junior to any lien of general, county, city, village, or school tax but no sale of property to enforce any lien of general, county, city, village, or school tax or other lien will extinguish the lien of such a special assessment unless filed at least 72 hours before the sale, if the proceeds of the sale fail to satisfy the special assessment lien. This is done to protect taxpayer investments. Additionally, LB1107 would make various grammatical changes in the statutes that it seeks to amend. And I know there are going to be those who will follow me who can probably help flush this out a little bit better, so. I'll take any questions, if there are any. [LB1107]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
February 18, 2010

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SENATOR CORNETT: Seeing none, thank you, Senator Pirsch. [LB1107]

SENATOR PIRSCH: Thank you. [LB1107]

SENATOR CORNETT: First proponent. How many proponents are there? [LB1107]

PAUL KRATZ: Hello, my name is Paul Kratz, K-r-a-t-z. I'm the city attorney in Omaha. I've been before this committee a couple of times on this issue and I appreciate you once again listening to us. I want to emphasize that what we're trying to do with this bill is simply reverse a Supreme Court decision from several years ago that had reversed decades of practice without any problem, without any complaints from anybody. Nonetheless, we're faced with this decision and that's the purpose of this bill is to help reverse that. I also view this as really a health and safety issue. These special assessments are put on property for cutting weeds and litter, demolition unsafe, demolition of unsafe buildings when the property owner isn't being responsible. In Omaha we've created a fund. It's a revolving fund to do these projects. It's important that as we spend the money that through these assessments we replenish the fund. The problem arises with the tax certificate sale and if we're unable to continue the lien throughout that process, then we will not receive that money back to put into the fund and hence to continue our demolition and weed and litter work. Those are pretty straightforward. Again, I would hope that this committee would pass it out. Thank you. [LB1107]

SENATOR CORNETT: Thank you. Questions from the committee? Seeing none, thank you. [LB1107]

PAUL KRATZ: Thank you. [LB1107]

SENATOR CORNETT: Next proponent. [LB1107]

LYNN REX: Senator Cornett and members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities and we are also here in support of LB1107. As you may remember, Senator Pirsch was kind enough to introduce a similar measure last year. We do think this is necessary because the Supreme Court opinion did, obviously, cause a problem. So we think this bill addresses it and we do understand that there are some issues that may be brought forward to work out with the title companies and Senator Pirsch and Jack Cheloha have been working on that, so we really appreciate the committee advancing this bill so it can be considered. Thank you. [LB1107]

SENATOR CORNETT: Thank you. Questions from the committee? Seeing none, thank you. [LB1107]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
February 18, 2010

---

LYNN REX: Thank you. [LB1107]

SENATOR CORNETT: Are there any further proponents? Opponents? [LB1107]

JOHN DAUM: Chairperson Cornett and members of the committee, my name is John Daum. That's J-o-h-n D-a-u-m. I'm here representing the Nebraska Land Title Association. The members of our association are title insurance agents and abstracters who daily deal with the records that impart notice of special assessments as well as other interests in real estate. We do have some concerns with the bill as written, in particular with the perpetual nature of the lien and a possible conflict with an existing statute. We have, however, this afternoon spoken with the proponents and think that we will be able to iron out some of these concerns without, oh, a great deal of difficulty. Having said that, I'll take any questions anyone may have. [LB1107]

SENATOR CORNETT: Yes, this bill we talked about quite a bit at the beginning of the session because we have a bill similar to it on General File and it was the concern of a number of members of the committee and Senator White, who is no longer here today, that people, the way the bill was drafted, could potentially purchase property that did not have clear title when they thought it did. That the liens might be filed after the fact and that was the concern that we were...we expressed that to Senator Pirsch and that was trying to be addressed. Are you worried more about the perpetual nature of the lien maybe on the property or the lack of notification when that property is purchased as to whether there is a lien or not? [LB1107]

JOHN DAUM: We're concerned more about the notification issues, yes. [LB1107]

SENATOR CORNETT: And that is what...how do you see...what we were looking at is requiring notification and any lien being filed X number of days before the sale. How many days do you think that would need to be because the city actually is the one that schedules the sales, correct? [LB1107]

JOHN DAUM: Right. We would like to...I'm sorry. [LB1107]

SENATOR CORNETT: Who schedules the sales? [LB1107]

JOHN DAUM: We would like to see that window opened a little wider. [LB1107]

SENATOR CORNETT: Okay. [LB1107]

JOHN DAUM: You know, possibly 20 to 30 days. [LB1107]

SENATOR CORNETT: Twenty to thirty days. And that no liens could be filed after the

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
February 18, 2010

---

date of the sale, correct? [LB1107]

JOHN DAUM: Correct. [LB1107]

SENATOR CORNETT: Okay. Questions from the committee? Seeing none, thank you. [LB1107]

JOHN DAUM: Thank you. [LB1107]

ROBERT HALLSTROM: Chairman Cornett, members of the committee, my name is Robert J. Hallstrom. I appear before you today as registered lobbyist for Nebraska Bankers Association in opposition to LB1107. We probably have similar concerns to those that were expressed by the title agents in a little bit different context. I think the notification issue is significant and important in these foreclosure types of sales. What I rather imagine happens all too frequently is someone gets perhaps approved for a certain dollar amount, they go to the foreclosure sale, the foreclosure sale has traditionally been known to clean the slate, to extinguish all liens that might be in existence, whether that's general real estate taxes, special assessments, other competing liens and the like. Our concern is that under the scenario, if I get approved, maybe just an example, if I get approved for \$50,000 to go buy a property at a foreclosure sale, and I come back and I've bid \$50,000 in and then I find there's a \$10,000 assessment against the property that flows with the land, that lender may be able to tell the individual that I told you \$50,000, you've now got damaged goods. It's got \$60,000 including the liens. We can't make the loan for you but you've already closed on the sale. The gavel has fallen at the foreclosure sale. I, quite frankly, probably need to talk with the city of Omaha, learn a little bit more about the affect of the court case and what the prevailing practice was prior to that time. I rather imagine if I'd been here when that was a prevailing practice, I would have objected to that at that time as well in terms of the notion or the concept of a lien carrying through and following the property. But again, the notion of filing the notice of record in advance probably isn't going to be enough to let that consumer buyer who's at the foreclosure sale know of it until after the fact when the title insurance commitment is issued and the lender perhaps has to say, sorry, with those liens carrying through with the property, I'm just not going to be able to carry through with the loan that we talked about, so. [LB1107]

SENATOR CORNETT: Bob, I can tell you that our concern or a number of the people on the committee's concern was exactly that issue. That people purchase property that they don't know is encumbered. How do you see resolving that issue? [LB1107]

ROBERT HALLSTROM: Probably need to think a little bit more about that. We've kind of just decided today that it was a problem and haven't...apologize, haven't been involved before because we had looked at the bill and thought the perpetual nature always put us behind them. But as we examined the bill a little bit more and talked with

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
February 18, 2010

---

some bankers we came across this potential issue. I'm not sure how you...I mean, you could put something up the day of the sale, make some type of pronouncement, but again, assuming that the concept or the practice is I've gotten preapproved whether it's for a regular auction or a foreclosure sale in advance, the buyer...yeah... [LB1107]

SENATOR CORNETT: I was going to say, there is some reasonable expectation that a purchaser or a buyer would do due diligence on a piece of property. [LB1107]

ROBERT HALLSTROM: I would agree, Senator, but I think also, and there may be some other attorneys or someone from the bar association could fill the committee in better than I, but I think the traditional notion has been that if someone is going to give you some advice, they're going to say, if you go to a foreclosure sale under the existing law... [LB1107]

SENATOR CORNETT: Buyer beware. [LB1107]

ROBERT HALLSTROM: No, not the buyer beware, but that you are buying it free and clear. That you're going to... [LB1107]

SENATOR CORNETT: Under the existing law. [LB1107]

ROBERT HAILSTORM: Yeah, you're going to have all those extinguished and it's probably going to take somewhat of a learning curve, if I've accurately described how the law of foreclosure applies, for even the lawyers to be able to counsel to say, hold on a minute. When you go out there, let the buyer beware with respect to special assessments because if the policy decision is made to change the law in this regard, you'd have to notify them accordingly. [LB1107]

SENATOR CORNETT: So if we put a requirement of notification prior to each property going up for auction, aside from maybe that 30-day, 60-day window for the notice of the lien. Say at the sale, lot such and such, legal description, has this dollar amount of lien on it. And that has to be a part of the sale as a notification at the sale of the dollar amount of the lien. [LB1107]

ROBERT HALLSTROM: Yeah, I think, Senator, there's two issues. It probably won't impact whatever communications have taken place between that potential buyer and the lender. But it arguably can put the buyer on notice that if you've got \$50,000 that you can bid and you now know that there's a \$3,600 assessment... [LB1107]

SENATOR CORNETT: You're not going to purchase it. [LB1107]

ROBERT HALLSTROM: ...do the math, then you better lower your purchase price. So that could be a way to address the issue on site. [LB1107]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
February 18, 2010

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SENATOR CORNETT: If they did not do a title search ahead of time. Or they did not look to see what was filed against it. [LB1107]

ROBERT HALLSTROM: Yeah. And I would presume generally you're not going to have potential buyers at foreclosure sales who are going out independently and checking the record or having a title insurance commitment in advance of the sale. [LB1107]

SENATOR CORNETT: So again, liens filed must be filed within a certain date prior to the sale and then notification at the sale on each individual piece of property that there is a lien attached and what that dollar amount of the lien is. [LB1107]

ROBERT HALLSTROM: Certainly would seem to make it better. [LB1107]

SENATOR CORNETT: And no liens can be filed after the date of purchase. [LB1107]

ROBERT HALLSTROM: Certainly. [LB1107]

SENATOR CORNETT: Okay. Thank you. [LB1107]

ROBERT HALLSTROM: Thank you. [LB1107]

SENATOR CORNETT: Questions from the committee? Senator Louden. [LB1107]

SENATOR LOUDEN: Yes, thank you, Senator Cornett. Well, Bob, if there is a...like a property in town if there's been a street project and a lien against that property and stuff, when they have a foreclosure, that lien still stays on that property, doesn't it? [LB1107]

ROBERT HALLSTROM: It's not my understanding that that's at least with regard to the 2006 court case. It may have been differently before that. I don't know that for a fact but that's what's been testified to and I'll accept that. But since that case, at a minimum, all of those liens are extinguished. Even the general real estate taxes, if not enough money is brought from the sale, I think they are extinguished for the shortfall as well. [LB1107]

SENATOR LOUDEN: That if the city or somebody has put up the street paving and some of that, and they have that assessed against the property, then if that's foreclosed, then that lien goes away? [LB1107]

ROBERT HALLSTROM: That's my understanding. Just the same as a lender who's put money into the purchase price and there's not enough to go around and someone is left holding the bag at the back end. [LB1107]

SENATOR LOUDEN: Well, then if you owned a vacant lot on one of these streets that

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
February 18, 2010

---

were being developed out here, would you be further ahead then to not let somebody foreclose on it, let your brother-in-law buy it back then because then the lien would be gone off of it. That doesn't seem quite fair. It seems like it... [LB1107]

ROBERT HALLSTROM: Yeah. I don't know whether that happens, Senator, or not, but... [LB1107]

SENATOR LOUDEN: But I mean it, theoretically, it could, I guess, couldn't it? [LB1107]

ROBERT HALLSTROM: I would imagine. [LB1107]

SENATOR LOUDEN: Okay. And that's what this bill is all about? [LB1107]

ROBERT HALLSTROM: The bill is about allowing the special assessment to flow with the property, if you will, notwithstanding the foreclosure that would otherwise extinguish all of those liens, including the special assessments. [LB1107]

SENATOR LOUDEN: Okay. Thank you. [LB1107]

SENATOR CORNETT: Further questions from the committee? Seeing none, thank you. [LB1107]

ROBERT HALLSTROM: Thank you. [LB1107]

SENATOR CORNETT: Are there any other opponents? Neutral? [LB1107]

BETH BAZYN FERRELL: Chairman Cornett, members of the committee, for the record my name is Beth Bazyn, B-a-z-y-n, Ferrell, F-e-r-r-e-l-l. I'm assistant legal counsel with the Nebraska Association of County Officials. We're appearing here neutral today because our concern with the bill last year has really been taken care of by the bill this year. Our concern last year was that language said that special assessment liens had parity with other general tax liens. And we were concerned about protecting the general tax dollars were used for the operation of counties, cities and schools. The notice issue that has been discussed today is really a whole different approach than what we had looked at with the bill previously. We'd be very interested in being involved in that discussion if county officials would be involved in giving notice. I'd be happy to try to answer questions. [LB1107]

SENATOR CORNETT: Seeing none, thank you. Anyone else in a neutral capacity? Senator Pirsch do you wish to close or would you like to waive? [LB1107]

SENATOR PIRSCH: I'll just be brief. I appreciate all the comments that have been made here today and certainly my motivation in bringing forward LB1107 is just to make

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
February 18, 2010

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sure that we're protecting the taxpayers, their investments. And as they as the taxpayers invest in tearing down unsafe homes in the communities, that kids don't injure themselves on them in mowing the lawn and you know, the litter and the weeds, as Mr. Kratz had described, the city attorney. And I appreciate the testimony of Mr. Daum and Mr. Hallstrom here today and I think they do have very valid concerns that we can work through in terms of notice, notification, so that you know beforehand, people are aware who are going to these sales that what just exactly what they're getting themselves into and I think it's...be perfectly open to any other things that we can do to make it, you know, abundantly clear that they would follow with the sale. So whether that would be a sign or some sort of, oh, signed waiver acknowledging that. I do appreciate all those comments. A couple of points and I'm not sure that these rose but a Nebraska law allows, does allow special assessment liens is what I'm told by the city and that this is, you know, just emphasizing closing here, a remedy to collect on these liens which are after all just taxpayer dollars. So with that, I'll take any questions if you have any. [LB1107]

SENATOR CORNETT: Senator Utter. [LB1107]

SENATOR UTTER: In a sense we're giving special assessment liens a priority position. [LB1107]

SENATOR PIRSCH: Well, no, they would be junior to any lien of general, county, city, village, or school tax. [LB1107]

SENATOR UTTER: Well, I understand that, but if you were having a tax sale and the piece of property was being sold at the courthouse steps and if this lien is not extinguished at that tax sale either by the payment of a bid that is high enough to pay them all, and it remains unpaid, then it's going to travel with the property to whoever the buyer is. Does that not mean that that buyer is going to bid less money at that sale because in essence it looks to me like the special assessment becomes a priority lien. A preferred lien. [LB1107]

SENATOR PIRSCH: Well, we certainly want them to be aware of that special assessment lien and so that they can factor that into the...you would argue into the... [LB1107]

SENATOR UTTER: And it's going to affect the price that that property brings at the sale, don't you think? [LB1107]

SENATOR PIRSCH: Sure. But it actually exists. These are actual taxpayer monies that were expended to...in favor of the properties, so. So you're right. Are you asking, are people going to adjust their purchase price downward to reflect that? [LB1107]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
February 18, 2010

---

SENATOR UTTER: Well, it would seem to me they would. [LB1107]

SENATOR PIRSCH: Yeah, if we do it right and they're giving the right notice, and I'm committed to that. [LB1107]

SENATOR UTTER: And so that means the city is going to realize less money from the sale of that property against the unpaid taxes of the property, right? [LB1107]

SENATOR PIRSCH: Potentially, but what it does is it reflects the actual cost of those who have, you know, to say that nothing has gone forward on the property before to improve the property is incorrect and so it's accurately, I think, accurately values then the property at the price it exists minus the cost to put it in that shape. And so, I think it's more accurate the final analysis, the purchase price, so. [LB1107]

SENATOR CORNETT: Just one point on that. I would agree that it would be an improvement on the property if you're actually tearing down a condemned building but mowing costs and general maintenance are probably not an actual improvement to the value of that property, would you agree with that? [LB1107]

SENATOR PIRSCH: Well, you know, it may well be in that special sense but nonetheless they are costs that the taxpayers have had to bear only because of the property. But for the existence of that property they would not have incurred that costs, so. So again, the focus that I take in this bill is protecting the taxpayers investments. [LB1107]

SENATOR CORNETT: No further questions. That closes the hearings for today. Gentlemen, we're going to move into a very quick Exec Session. [LB1107]